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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TIMOTHY W. WILBANKS,

APPELLANT

APPELLATE CASE NO. 2023-001027

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK R. FARTHING
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
COURT’S EXHIBIT #1 (UNREDACTED INTERVIEW OF APPELLANT)**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Timothy wayne wilbanks,) 2022-GS-42-0353;0355-0358
6 Defendant.) June 8th,12th,13th,14th, 2023
Spartanburg, South Carolina

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8
9 B E F O R E :

10 HONORABLE J. DERHAM COLE, JUDGE; and a jury
11
12

13 A P P E A R A N C E S :

14 BARRY JOE BARNETTE, ESQUIRE
15 Attorney for the State

16 CHARLES WILLIAM SNYDER, III, ESQUIRE
17 Attorney for the Defendant
18
19
20

21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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Motions

1 (Proceedings June 8, 2023)

2 THE COURT: All right. We're here in the matter of
3 Timothy Wayne Wilbanks.

4 What do we have to hear?

5 MR. BARNETTE: Your Honor, my understanding, the
6 reason Mr. Snyder contacted me, that possibly Mr. Wilbanks
7 was wanting to fire him.

8 He's up for trial first thing up next week on the
9 trial docket number one, Your Honor. I do have two other
10 motions -- well, two other matters to deal with after we
11 deal with this motion, Your Honor.

12 THE COURT: Mr. Snyder.

13 MR. SNYDER: Yes, sir.

14 Mr. Wilbanks informed me a week and a half ago that he
15 would like me removed from his case.

16 He -- he just that he's had a change of heart. But in
17 the interest of time for next week, I think we'll just go
18 ahead and settle that matter now.

19 THE COURT: Go ahead and what?

20 MR. SNYDER: Settle the matter now.

21 THE COURT: Okay. All right. Mr. Wilbanks, you got
22 anything you want to tell me about?

23 THE DEFENDANT: If it please the Court, sir, yeah.

24 I would just like for him to be made to do his job, to
25 honor South Carolina Court Rule 413 in his oath of office.

Motions

1 That's it.

2 I've been incarcerated 19 months, and he's not done
3 anything proper in my case all the way to this very day.

4 And April a year and a half ago they put in a motion
5 for me to fire him but never would bring me before the
6 Court.

7 And they have went back and forth with me. He has
8 issued many threats to me that I'm going to be found guilty
9 and get a life sentence, and I just keep enduring it.

10 And I would prefer to move forward with him with a
11 reprimand being given unto him that he do his job, because
12 he's a smart man and he's been working here probably 13
13 years or so. And I don't -- I don't believe in tying up
14 the Court nor the state, nor county or city's time and
15 money, because this whole thing is a huge misunderstanding.

16 I just want him to report the assault and battery
17 that's been done onto me by these police officers, which
18 they have worked relentlessly to hide and bury. I want it
19 to come forth.

20 I have the body-cam video of it myself, and they have
21 all worked relentlessly in concert with one another to hide
22 and bury this very serious matter. I want that to come
23 forth, Your Honor.

24 THE COURT: All right. Well, Mr. Wilbanks, I'll do my
25 best. I'll keep close observation and I'll do my best to

Motions

1 ensure that Mr. Snyder properly represents you during the
2 course of the trial. Okay.

3 THE DEFENDANT: Yes, sir. Thank you, Your Honor.

4 THE COURT: All right. What else do we have?

5 MR. BARNETTE: Your Honor, I believe that they're
6 having a Jackson vs. Denno motion.

7 I didn't know if -- and I'll let Mr. Snyder talk about
8 that, Your Honor. There -- he did give a statement to a
9 police officer in this case.

10 MR. SNYDER: Yes, sir. We will have a couple, but I'm
11 not prepared to do that right now.

12 MR. BARNETTE: What I'd like to do is -- with the
13 Court's permission is to go ahead and give the statements
14 to the judge so he can review them ahead of time.

15 MR. SNYDER: That's fine.

16 I might have one more then because the ones I'm
17 referring to are recorded.

18 MR. BARNETTE: Yeah. There's an audio recording with
19 Jon Guest where --

20 MR. SNYDER: Right.

21 MR. BARNETTE: That's the one where --

22 MR. SNYDER: That's -- that's the one, right, that one
23 and the one in the hospital bed.

24 MR. BARNETTE: Yeah, the hospital. Well, the hospital
25 bed was actually -- the one on video?

Motions

1 MR. SNYDER: Yes.

2 MR. BARNETTE: That's a city case. We are not trying
3 that armed robbery.

4 MR. SNYDER: Okay. Well.

5 THE COURT: Well, were these audios intending to show
6 me the circumstances surrounding the making of a statement?
7 Because I don't need to know what the statement is itself.

8 MR. BARNETTE: No, sir. It's the -- he Mirandized
9 him. He freely and voluntarily talks to Jon. It'd be our
10 position from there, and then it's -- we'd like to
11 introduce that at the appropriate time.

12 There'll have to be some redactions. There are some
13 comments about his prior armed robberies and things,
14 obviously, have to be redacted from that. That's as well,
15 Mr. Snyder.

16 THE COURT: Well, Mr. Snyder, is the defendant's
17 position that the statements were not voluntarily made?

18 MR. SNYDER: Yes, sir.

19 THE COURT: Okay. And is it your contention that the
20 audio recording of those statements would support that
21 contention?

22 MR. SNYDER: It would be our position that he was in a
23 hospital. He was under medication and was not in a
24 position where he should have been asked to make those
25 statements.

Motions

1 THE COURT: All right. Well, I'm guessing that's not
2 going to be reflected on the audio.

3 MR. SNYDER: No, sir.

4 THE COURT: well, do y'all want -- can y'all agree to
5 a stipulation of fact, or no, as to -- as to what the
6 circumstances were?

7 What I'm saying is I don't need to listen to what
8 statement was actually made because that's not -- doesn't
9 matter to me what statement was made. What matters is what
10 were the circumstances under which any statement was made.

11 So I'm happy to hear any evidence that relates to the
12 circumstances of the making of the statement because that's
13 what's important for my determination as to whether or not
14 it's voluntary. But whatever statement he actually made
15 has no bearing on that decision.

16 MR. BARNETTE: Yes, sir. I don't know -- like I said,
17 I think the statement -- if you hear it and everything, we
18 think it's freely and voluntarily given. He was given his
19 Miranda rights actually by two different officers at two
20 different times. Only one is recorded on that video, on
21 the audio, but he admits. He says on there that he
22 understood he gave -- given his rights.

23 THE COURT: well, here's what I'm saying.

24 I don't know if I y'all can agree to a stipulation of
25 fact or not. And if you can't, that's fine. I assume that

Motions

1 you're going to present testimony --

2 MR. BARNETTE: Yes, sir.

3 THE COURT: -- about the circumstances that relate to
4 the making of any statement.

5 MR. BARNETTE: Yes, sir. I'll have the investigator
6 here.

7 THE COURT: So my question was simply is there
8 anything on an audio that's going to be helpful in my
9 determining whether or not it's voluntarily made, or is it
10 just presenting what he said?

11 MR. BARNETTE: It's presenting what he said.

12 My position would be if you listen to the audio
13 there's no question that he was not forced or anything like
14 that.

15 THE DEFENDANT: Your Honor, if it please the Court.

16 THE COURT: Just a minute, now, Mr. Wilbanks.

17 Mr. Snyder is representing you. He gets to address
18 the Court. You don't. You can talk to him and he'll
19 address me with whatever concern you have, but y'all don't
20 get to tag team. Do you understand?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Because you have a lawyer. You get to
23 talk to him. In other words, if you need to tell him
24 something, I'll let you do that, but he's the one that gets
25 to address the Court. He's your lawyer.

Motions

1 THE DEFENDANT: May I please tell him something?

2 THE COURT: You may. Certainly.

3 (Pause.)

4 MR. SNYDER: I don't think the audio is anything that
5 you would need to review ahead of time.

6 THE COURT: All right. What's the state's position?

7 MR. BARNETTE: Your Honor, I'll be glad to present it
8 at the appropriate time on Monday. I just didn't know from
9 short -- to cut down on the time that we had before the
10 Court.

11 THE COURT: Well, I'm saying I'll listen to it ahead
12 of time if you want to if it's going to be offered as
13 evidence in the Denno hearing.

14 MR. BARNETTE: Yes, sir.

15 THE COURT: I just didn't know whether I was going to
16 be listening to a statement made by the defendant, which is
17 not important to my decision, or whether the audio itself
18 will establish the relevant circumstances surrounding the
19 making of the statement, which of course is relevant to my
20 determination.

21 MR. BARNETTE: Yes, sir. We can just leave it until
22 Monday, and that way Mr. Wilbanks has the opportunity to
23 testify if he'd like to at that point. We'll have
24 Investigator Jon Guest that took the recording that he made
25 the statement to present on Monday.

Motions

1 MR. SNYDER: I think testimony will be needed to get a
2 better idea of the circumstances.

3 THE COURT: Well, I understand there's got to be
4 testimony.

5 MR. SNYDER: Yes, sir.

6 THE COURT: I'm just talking about the audio itself.

7 MR. BARNETTE: And I'm just doing it from a time
8 standpoint. We can deal with it on Monday.

9 THE COURT: How long is the audio?

10 MR. BARNETTE: It's approximately 30 something
11 minutes.

12 MR. SNYDER: Like 32.

13 THE COURT: All right. And so but you, solicitor,
14 believe that it's relevant on my decision?

15 MR. BARNETTE: It could be, Your Honor. I don't what
16 Mr. Wilbanks is going to be testifying to if he does
17 testify, but, like I said, I think it possibly could.

18 THE COURT: Well, do you think you'd offer it in
19 rebuttal or in the case in chief on the motion?

20 MR. BARNETTE: On the motion. I'll do in the case in
21 chief.

22 THE COURT: Well, there's no reason. I can listen to
23 it in advance then if y'all want me to.

24 MR. BARNETTE: Yes, sir.

25 THE COURT: Have you got it on a disc or something?

Motions

1 MR. BARNETTE: Yes, sir. I can get it on a disc for
2 you. Like I say, Mr. Snyder -- it'll have to be redacted.
3 You'll see. There's parts of it will have to be redacted.

4 THE COURT: Well, are you going to redact it before I
5 get it?

6 MR. BARNETTE: It's up to -- I can, Your Honor. It's
7 whatever they decide from that standpoint. Of course I'll
8 be introducing the full video as opposed -- not video --
9 audio as a court's exhibit, obviously, and do the redacted
10 part of it as a state's exhibit.

11 THE COURT: Well, here's the thing.

12 If the redacted portions are important and relevant to
13 my decision, if I deny the motion to exclude it the jury
14 has to hear the same information I hear if it's relevant on
15 that issue, because the jury gets to make the decision as
16 to voluntariness too if I don't grant the motion to exclude
17 the statement.

18 MR. BARNETTE: Yes, sir. Well, I can submit the
19 original. Obviously, I gave it to Mr. Snyder and he has to
20 license to it but --

21 THE COURT: Well, just give me the unredacted version,
22 and then if we need to redact it in some form or fashion
23 for the benefit of the jury, we can do that.

24 MR. BARNETTE: Yes, sir.

25 THE COURT: You might just want to do both if y'all

Motions

1 can agree on redaction.

2 MR. BARNETTE: I'll forward it to him it once I -- I
3 have an idea what they needed redacted. Yes, sir.

4 THE COURT: Okay. All right. What's the third thing?

5 MR. BARNETTE: Your Honor, the third thing is, as you
6 know, our county was hit by a ransomware attack, and that
7 ransomware attack -- their P.C.M. files for us, our case
8 management files, was corrupted.

9 Also, the sheriff's department was part of the county
10 system that was hit also. Their drug cases were corrupted.

11 I do have where the testing was done. In this case
12 you have two drugs that he was found in possession of, Your
13 Honor. They're both charged as PWID in this case.

14 They were tested. The results was actually sent to
15 the public defender's office, Your Honor. I do have the
16 document where we transmitted it to them. They have a copy
17 of the drug report. We do not and the sheriff's department
18 does not because their files was corrupted.

19 We know it tested positive, the drugs does. The
20 weight's the -- would be the only issue from that
21 standpoint, and the reports have the amount that was found
22 on the -- both drugs.

23 THE COURT: The sheriff's department did the analysis?

24 MR. BARNETTE: Yes, sir. And she did. Beth Stewart
25 would be the one that tested. And she tested them, and she

Motions

1 did the testing. It is these two drugs. No question about
2 it.

3 She has it written down, but the actual report she
4 does not have, and we do not have it either. But we did
5 transport it as part of the discovery to the public
6 defender's office.

7 THE COURT: You know way back in the day there used to
8 be a time where we actually had files where we put the
9 paperwork in there. We had a drug report, and it couldn't
10 get corrupted unless somebody tampered with it.

11 MR. BARNETTE: Yes, sir.

12 THE COURT: So the question for me is what?

13 MR. BARNETTE: Your Honor, we'd ask if we could ask
14 the public defender's office to supply us a copy.

15 THE COURT: A copy of the report?

16 MR. BARNETTE: Yes, sir.

17 THE COURT: Okay. Mr. Snyder.

18 MR. SNYDER: I'd love to, Judge, but it's the --
19 Mr. Wilbanks's file, and I can't authorize disclosure of
20 his file.

21 THE COURT: Well, don't we have what's referred to as
22 reciprocal discovery?

23 MR. SNYDER: I'm not planning on using it in my case
24 in chief, Judge.

25 THE COURT: What about your not-so-case-in-chief?

Motions

1 MR. SNYDER: I would have to provide it.

2 THE COURT: Well, this is a report that you received
3 from the solicitor himself?

4 MR. SNYDER: I'm sorry, Judge?

5 THE COURT: You received the report from the
6 solicitor?

7 MR. SNYDER: Yes, sir.

8 THE COURT: Okay. You're required to provide him a
9 copy of the report he gave you.

10 MR. SNYDER: Yes, sir.

11 THE COURT: Nothing that you've done with it so far as
12 your work product --

13 MR. SNYDER: Yes, sir.

14 THE COURT: -- but the report that he provided to you,
15 you give him a copy of it.

16 MR. SNYDER: Okay.

17 THE COURT: All right. What else?

18 MR. BARNETTE: Nothing else, Your Honor. I know we
19 have the Jackson vs. Denno hearing. When would you like
20 the officer? Would you like to do that before lunch or
21 after lunch?

22 THE COURT: Probably -- am I qualifying the jury?

23 MR. BARNETTE: Yes, sir.

24 THE COURT: Well, we probably will -- we'll probably
25 do it at 11:30.

Motions

1 MR. BARNETTE: I'll have the officer present.

2 THE COURT: What?

3 MR. SNYDER: Nothing, sir.

4 THE COURT: All right. Anything else?

5 MR. BARNETTE: Nothing from the state, Your Honor.

6 THE COURT: All right. I'll see y'all Monday morning,
7 I guess, around 10:00 for jury qualification.

8 MR. BARNETTE: Yes, sir.

9 THE DEFENDANT: Thank you, Your Honor.

10 THE COURT: Thank you, Mr. Wilbanks. Y'all work
11 together, now. You can't work apart.

12 THE DEFENDANT: Can I work as cocounsel with him?
13 I'll keep him straight.

14 THE COURT: You can work as cocounsel with him as long
15 as you're sitting at the table --

16 THE DEFENDANT: I got ya.

17 THE COURT: But won't be able -- but you won't be able
18 to address me.

19 THE DEFENDANT: Your Honor, thank you.

20 MR. SNYDER: I'll consent to my being relieved from
21 this case, Judge.

22 THE COURT: Sir?

23 MR. SNYDER: I'll consent to my being relived from
24 this matter.

25 THE COURT: There's no motion.

1 MR. SNYDER: Okay.

2 THE COURT: All right. Monday morning at 10:00.

3 END OF PROCEEDINGS JUNE 8, 2023

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Jon Guest (In-camera)
Direct examination by Mr. Barnette

1 (Proceedings January 12, 2023)

2 (D.V.D. marked Court's Exhibit No. 1 for
3 Identification.)

4 THE COURT: All right. We are ready to begin with the
5 pretrial motions and other matters in the case of the State
6 vs. Timothy Wayne Wilbanks.

7 As I understand it, the defense requests to have a
8 hearing for the Court to determine the voluntariness of any
9 statement the defendant might have made to law enforcement
10 that the state intends to offer in the trial of the case.

11 Is that right, Mr. Snyder?

12 MR. SNYDER: Yes, sir.

13 THE COURT: All right. Mr. Barnette.

14 MR. BARNETTE: Your Honor, there was a statement given
15 at the hospital, at Spartanburg Regional. Your Honor,
16 Investigator Jon Guest interviewed the defendant.

17 Your Honor, I'd like to introduce Court's Exhibit 1.
18 I believe we talked at some pretrial motions last week.
19 Your Honor, we provided the Court. I believe the Court has
20 already listened to this. This is the unredacted version.
21 I'm going to have to go redact it. I understand that with
22 some of the things that were mentioned on the tape, but I'd
23 like to present it for the purpose of this hearing in front
24 of the court.

25 THE COURT: All right. That's Court's Exhibit No. 1

Jon Guest (In-camera)
Direct examination by Mr. Barnette

1 for purposes of this hearing.

2 Mr. Snyder, I have already listened to the audio.

3 MR. BARNETTE: Thank you, Your Honor.

4 Enter that as Court's Exhibit 1.

5 (D.V.D. marked Court's Exhibit No. 1.)

6 Your Honor, I'd like to call Investigator Guest to the
7 stand, Your Honor, for the purpose of this hearing.

8 JON GUEST, having been first
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE

11 Q If you would, give us your full name, sir, if you
12 would.

13 A My name is Jon Guest.

14 Q And where do you work at, sir?

15 A Spartanburg County Sheriff's Office.

16 Q And what's your position there, sir?

17 A I'm a violent crime detective.

18 Q And how long have you been in law enforcement, sir?

19 A It's a little over 17 years.

20 Q Going back to November 9th of 2021, was you called to
21 a crime scene where the defendant had done an armed robbery
22 and ran from the patrol division of the sheriff's
23 department?

24 A Yes. I was.

25 Q And did you initially respond there on the interstate?

Jon Guest (In-camera)
Direct examination by Mr. Barnette

1 A I did.

2 Q And this occurred all in Spartanburg County, the
3 robbery and the chase and everything.

4 A Yes, sir.

5 Q After you arrived there did you have -- did you go to
6 the hospital to interview the defendant?

7 A I did. I was asked to go to the hospital and speak
8 with Mr. Wilbanks who was in the emergency room.

9 Q Do you see Mr. Wilbanks present here today?

10 A Yes.

11 Q Can you identify him for the Court?

12 A Wearing a blue dress shirt with a red tie, I believe,
13 at the defendant table.

14 MR. BARNETTE: Your Honor, we'd ask for the record to
15 reflect that he's identified the defendant.

16 THE COURT: Well, Mr. Snyder has got the same thing
17 on.

18 Is he the one without the jacket?

19 THE WITNESS: No jacket. I'm sorry. Yes, sir.

20 THE COURT: He's without the jacket.

21 MR. BARNETTE: Yes, sir.

22 BY MR. BARNETTE

23 Q In this case when you interviewed him, you gave him
24 his Miranda rights?

25 A I did.

Jon Guest (In-camera)
Cross-examination by Mr. Snyder

- 1 Q Did he understand them at the time?
- 2 A He said he did, yes, appeared like he did.
- 3 Q Did he ask for an attorney at any point?
- 4 A No.
- 5 Q Was he forced or coerced in any way?
- 6 A No, sir.
- 7 Q Did he freely and voluntarily understand his rights?
- 8 A Yes.
- 9 Q Did he freely and voluntarily talk to you?
- 10 A He did.
- 11 Q And actually Sergeant Brandon Letterman out at the
- 12 scene actually gave him his rights prior to that.
- 13 A Yes. He -- he informed me before I left the scene
- 14 that he did Mirandize him. I wasn't present for that, so I
- 15 actually Mirandized him a second time, or first time,
- 16 whichever one. But I Mirandized him myself at the
- 17 hospital.
- 18 Q And actually he acknowledged that, that he was
- 19 Mirandized by Sergeant Letterman at the scene.
- 20 A He did.
- 21 Q He actually asked you not to give them to him again,
- 22 but you did out of an abundance of caution.
- 23 A That's correct, yes, sir.
- 24 Q And did he give you the statement? Did he give you a
- 25 verbal statement at that time?

Jon Guest (In-camera)
Cross-examination by Mr. Snyder

1 A He did.

2 Q And did you record that statement?

3 A I did audio.

4 Q And is that contained in Court's Exhibit 1 that we've
5 entered in?

6 A Yes, sir.

7 Q And is that the statement that's accurate as far as
8 you know?

9 A Yes, sir.

10 Q And at that time did you threaten him in any way?

11 A No, sir.

12 Q Did you promise him anything?

13 A No, sir.

14 Q Did he freely and voluntarily talk to you?

15 A Yes, sir.

16 Q And he understood all of his rights to the best of
17 your knowledge.

18 A Yes.

19 Q If you would, please, answer any questions the Court
20 may have for you or the defense attorney may have for you.

21 THE COURT: Mr. Snyder.

22 MR. SNYDER: Just a few questions.

23 CROSS-EXAMINATION

24 BY MR. SNYDER

25 Q You agree that for purposes of this hearing he wasn't

Jon Guest (In-camera)
Cross-examination by Mr. Snyder

- 1 in custody at that time.
- 2 A Yes.
- 3 Q And you said you give him his Miranda warnings.
- 4 A Yes.
- 5 Q And you said those were on tape.
- 6 A Yes, on audio, yes, sir.
- 7 Q Now, Mr. Wilbanks had just been through a pretty
- 8 heated confrontation, correct?
- 9 A I guess, yes.
- 10 Q He was also under some medication at the time of
- 11 your --
- 12 A I cannot testify to any of that. I have no idea what
- 13 he was under. He didn't appear to be under anything based
- 14 on my observation of him.
- 15 Q Now, when you read Mr. Wilbanks his Miranda rights did
- 16 he -- did you ask him to fill out any type of statement
- 17 acknowledging those rights?
- 18 A No.
- 19 Q Did you ask him to -- do you have any receipt that he
- 20 waived those rights?
- 21 A The audio disc of my voice and his is the only
- 22 receipt.
- 23 Q But he didn't sign anything.
- 24 A No.
- 25 Q The only two people that are present were you and

Jon Guest (In-camera)
Redirect examination by Mr. Barnette

1 Mr. Wilbanks?

2 A Yes, sir.

3 Q Okay. Did you agree to give anything or do anything
4 in exchange for the statements that were made on that
5 recording?

6 A No.

7 Q You said you were aware that Miranda was provided
8 before your conversation?

9 A No. I was told --

10 Q Okay.

11 A -- that Sergeant Letterman gave him his Miranda, but I
12 was not present for that.

13 Q So --

14 A I don't like to interview people where Miranda applies
15 unless I'm either present for the issuance or I give it
16 myself. That way I know for sure that it was given.

17 Q So out of abundance of caution you --

18 A Yes.

19 Q -- gave Miranda warnings. And the only -- the only
20 evidence that the Miranda warnings were given were the ones
21 made in that report.

22 A To my knowledge, yes, sir. I don't know that -- I
23 don't know if Sergeant Letterman recorded his. I doubt it.

24 MR. SNYDER: I have no further questions, Judge.

25 MR. BARNETTE: Just one or two on redirect, Your

Jon Guest (In-camera)
Redirect examination by Mr. Barnette

1 Honor.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q You asked him about his injuries, is that right?

5 A Yes.

6 Q And he told you that he didn't have any injuries that
7 would keep him from talking to you.

8 A That's correct.

9 Q I know you went into other things about shootings and
10 things like that, but is that essentially what he said?

11 A Yes, sir.

12 Q And plus he had medical attention there. I mean,
13 there was one time a doctor came in and checked on him, is
14 that correct?

15 A Yes, sir.

16 Q And at the end of it actually came in to treat him and
17 you ended the interview at that point.

18 A Yes.

19 Q So they could treat him.

20 A That's correct.

21 Q And you stated before he didn't appear to be under the
22 influence of anything when you spoke to him.

23 A No, sir.

24 Q He freely and voluntarily talked to you.

25 A Yes, sir.

1 Q Thank you, sir.

2 THE COURT: You may step down.

3 MR. BARNETTE: Your Honor, that would be the state's
4 showing concerning this statement he made on Court's
5 Exhibit No. 1, Your Honor.

6 THE COURT: All right. Mr. Snyder.

7 MR. SNYDER: We have no nothing to present in this
8 matter.

9 THE COURT: Mr. Snyder, have you talked to
10 Mr. Wilbanks about his right to testify during this hearing
11 if he wishes to?

12 MR. SNYDER: I have.

13 THE COURT: I'm talking to Mr. Snyder right now.

14 THE DEFENDANT: Sir, I'm sorry.

15 MR. SNYDER: I have, but let me get -- have a brief
16 second just to make sure that we are on the same page.

17 THE COURT: Please do.

18 (Pause.)

19 MR. SNYDER: Yes, sir. We have nothing to present.

20 THE COURT: All right. Mr. Wilbanks, did Mr. Snyder
21 explain to you that you have a right to testify during the
22 course of this hearing?

23 The purpose of this hearing is for me to determine
24 whether or not any statement that the state claims you made
25 they intend to offer into evidence when the case is tried

Timothy Wayne Wilbanks (In-camera)
Direct examination by Mr. Snyder

1 before the jury, that you have a right to provide testimony
2 yourself either through your own testimony or any other
3 witness to -- to provide evidence that might relate to the
4 issue of whether or not the statement was voluntarily made
5 by you, or whether the statement was made at all for that
6 matter.

7 Do you understand you've got a right to provide
8 evidence in that regard if you want to?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you want to?

11 THE DEFENDANT: I do, sir.

12 THE COURT: So you talked to Mr. Snyder about it.
13 He's explained to you the consequence of testifying during
14 the hearing?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. And you do wish to testify?

17 THE DEFENDANT: I do, sir.

18 THE COURT: All right. Do you understand that what
19 you're testifying to if you wish to offer evidence is
20 solely limited to my determination as to whether or not any
21 statement the state claims you made was made and whether or
22 not that statement was voluntarily made?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. All right. Do you want to come
25 around?

Timothy Wayne Wilbanks (In-camera)
Direct examination by Mr. Snyder

1 TIMOTHY WAYNE WILBANKS, having
2 first duly affirmed, testified as follows:

3 THE COURT: All right. Mr. Snyder.

4 MR. SNYDER: Yes, sir. Thank you.

5 DIRECT EXAMINATION BY MR. SNYDER

6 Q Please state your name for the record.

7 A Timothy Wayne Wilbanks.

8 THE COURT: Mr. Snyder --

9 Q Please state your -- or Timothy Wilbanks. What
10 brought you here today?

11 A A course of events where I'm accused of several crimes
12 after being beat by the police officer out in the middle of
13 Interstate 85. They saw fit to do whatever means they
14 could to cover up that beating and to stack a lot of
15 charges on me, and that's why I'm here today.

16 Q You told me -- but just to inform the Court, do you
17 recognize the individual sitting next to the solicitor?

18 A I do not.

19 Q You ever seen him before?

20 A Not to my knowledge. I don't recall. I was under a
21 concussion from the beating where the officer beat me in
22 the head and busted the taser in the top of my head. And I
23 recall telling as many people as I can about the beating.

24 Spartanburg County was not even going to take me to
25 the hospital out there on the middle of Interstate 85.

Timothy Wayne Wilbanks (In-camera)
Direct examination by Mr. Snyder

1 They throwed me in a car, was going to transport me, and
2 the highway patrol corporal said no, I've called E.M.S.
3 When E.M.S. come, I told them about the beating.

4 All of this is on the body cam. I've told everybody
5 about the beating. It's obvious about the beating. And
6 I've told everybody over 200 times on the jail kiosk all
7 the way from the sheriff, to the solicitor, to you, and to
8 anybody that would listen.

9 I have told people and the -- and the video shows that
10 Officer Pretlove took the taser after Nicholas Harakas was
11 beating me with his closed fist. He took that taser right
12 before he tased me and beat me in the top of the head with
13 the butt end of it. It's on the video. Busted the taser
14 in the middle of Interstate 85. Then they tased me with it
15 after they put the battery compartment back together.

16 Nicholas Harakas' statement says that the battery
17 compartment was compromised during the confrontation.

18 It also shows Officer Powell putting her hand in front
19 of the video, body-cam video, in order to hide the whole
20 ordeal. But you can still see the beating.

21 It also shows officer cutting his body cam off -- Mr.
22 Miller -- and it also shows Nicholas Harakas throwing his
23 to the ground. But it's obvious, and all you hear me
24 saying is please stop beating me, please stop beating me.

25 George Floyd and Tyre Nichols' case has definitely

Timothy Wayne Wilbanks (In-camera)
Direct examination by Mr. Snyder

1 nothing on this case. The only difference is I'm living to
2 tell my story, where they died from the blunt force trauma.
3 And I'm going to tell my story.

4 I been courteous to everyone and not turned over my
5 videos to the media. I've been courteous out of respect
6 for the tough jobs you guys have.

7 It's a big mess. I said it was a mess from the
8 beginning. I'm not perfect by any stretch of the
9 imagination, but I do not remember confessing anything to
10 this gentleman. And if I did, I may have confessed to
11 bombing the White House in order to keep somebody else from
12 beating me.

13 I do not remember this gentleman. I'll take a
14 polygraph to it, whatever I need to prove that. But
15 everything I just said, I have evidence to prove everything
16 I just said.

17 The only thing I can't prove is that I don't remember
18 this gentleman or talking with him. I do not remember
19 that. And I'll take a polygraph to that.

20 Q Okay. So to summarize all of that, due to the trauma
21 you sustained with your encounter with the Spartanburg
22 County Police Department you -- you don't remember anything
23 that happened at the hospital.

24 A Nothing. I remember etched in the vehicle, my hands
25 up and saying, brothers, please forgive me for driving

Timothy Wayne Wilbanks (In-camera)
Direct examination by Mr. Snyder

1 crazy, and they run and tackle me and start beating me with
2 their closed fist.

3 I'm the only one that was practicing deescalation
4 tactics and following police protocol. I was the only one.
5 I was the only one. This was totally uncalled for. Had my
6 hands in the air. Please stop beating me, please stop
7 beating me. I was down on the ground. They straddled me,
8 holding me down and beating me. I was not resisting.

9 And then charged me with a resisting arrest with
10 assault on a police officer, injury to a police officer,
11 for God's sakes. I do not remember this gentleman.

12 Q Now, because of all of the circumstances surrounding
13 the -- the arrest?

14 A I have extreme P.T.S.D. and extreme duress. Mental
15 health is treating me for both of these conditions. I'm on
16 medication for it.

17 I've got two gunshot wounds in the upper left arm from
18 just like Officer Knisley questioning me that morning,
19 cleared my vehicle, cleared me of any and all charges, then
20 let me go, then tell me, pulled me over. I pull over. I
21 pull over. Then I look in the mirror. He's got his gun
22 drawn. I pull off. I did that. I did that. I led them
23 on a high-speed chase.

24 Q Okay. You --

25 A I did that, sir. My point being is I -- my P.T.S.D.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 and extreme duress kicked in when I saw the gun, because
2 when I was shot years ago they was a badge involved in
3 that, somebody impersonating a police officer, and I was
4 robbed.

5 So I have no reason. There's medical records and
6 history to prove all that.

7 I do not remember this gentleman. I have no problem.
8 If you've caught me redhanded doing something, I've got no
9 problem pleading. None. I --

10 Q Again, because of the trauma you sustained in the past
11 and on this day, you don't remember anything that happened
12 after the arrest.

13 A All I remember is sitting in that road and begging the
14 officers, why did y'all beat me like this, why, for just
15 driving.

16 And -- and they failed to give me my right to be
17 informed -- 17-13-50. Violated that right off the rip.
18 And I'm like just tell me, can I have a drink of water.
19 They'd say shut up, what you want, some of that liquor in
20 the truck. That was my dad's truck.

21 I've got medical reports right there says I don't
22 drink. Never smoked in my life. And I wasn't under the
23 influence of any drugs. I got the medical reports right
24 there in my U.S. District Court case. And that's the only
25 reason I have the body cams that they tried to bury and

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 hide, is because the federal courts have helped me obtain
2 them.

3 Q Okay. Because of all of that you don't remember any
4 of the --

5 A I don't remember this gentleman. I do not remember
6 him.

7 Q Okay.

8 A The Lord knows I do not remember this gentleman.

9 Q Okay. Thank you.

10 MR. SNYDER: No more questions.

11 MR. BARNETTE: May it please the Court, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. BARNETTE

14 Q Who is Toby Bradley?

15 A Excuse me?

16 Q Who is Toby Bradley, the man you talk about on the
17 Court's Exhibit 1, the interview of Investigator Guest?

18 A Toby Bradley was a crooked cop who I said was crooked
19 back in 2000. He also -- it proved that I was right about
20 his crookedness. He entered in a confession --

21 MR. SNYDER: Objection. This is not relevant to
22 this --

23 THE WITNESS: He's asking me a question.

24 THE COURT: Let's confine this evidence today to the
25 issue of voluntariness.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 MR. BARNETTE: I am, Your Honor.

2 He mentioned Tony Bradley as the arresting officer in
3 his previous armed robbery back in 2003. My point is he
4 knows exactly what he said to this officer. He went
5 through --

6 THE WITNESS: I don't recall talking to this gentleman
7 about Toby Bradley.

8 THE COURT: I'm not speaking to you now.

9 THE WITNESS: I'm sorry, sir. Forgive me.

10 THE COURT: Mr. Barnette and I are having a
11 conversation.

12 THE WITNESS: I'm sorry. Please forgive me.

13 MR. BARNETTE: And, Your Honor, what it was, that was
14 the armed robbery in 2003. There's no way Investigator
15 Guest would have known about that case. He brings it up,
16 several things in his interview. There's no --

17 THE COURT: All right.

18 MR. BARNETTE: -- way this officer brought it up in
19 his interview. He brought it up, and he knew all about it.

20 THE COURT: All right. You may continue.

21 MR. BARNETTE: That's the reason why I asked that
22 question, Your Honor.

23 BY MR. BARNETTE

24 Q So Tony Bradley is the officer in the arrest of your
25 armed robbery back in 2003 or 2002, wasn't it?

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 A The one where you were caught altering video in April
2 of 2003 at that trial, yes, sir.

3 Q No, sir.

4 A That was Toby Bradley. It's court record, sir.

5 Q Okay.

6 A It's a matter of record. He said offer anything
7 that's evidence. It's a matter of evidence, sir.

8 Q Okay. The -- so you've heard Court's Exhibit 1.
9 You've heard the interview that Investigator Guest did.

10 A I have no had any discovery. No -- nothing's been
11 gone over with me. I do not have any discovery. I have
12 not seen any video of any of this. I have not heard any
13 audio. Nothing's been shared with me in 19 months all the
14 way up to this very day.

15 Q Okay. So none of the body cam video has been shared
16 with you?

17 A By the federal courts because of my federal lawsuit.
18 And I also have on the jail kiosk where I have a threat. I
19 don't know if it's from you or who, but if I pursued, this
20 was in January 13th of 2022, a month after, a month and a
21 half after, the incident to where there's a threat that
22 come by reminding me of the past like what you're doing
23 now, pretty much same language. And it says -- it's a
24 matter of jail record, and it says do not go after an
25 excessive force case, Tim, and do not go after the

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 solicitor's office or law enforcement any kind of way,
2 otherwise the solicitor's office will seek a life sentence,
3 and they will get it, remember what they had to go through
4 in order to bring you into custody. That's a matter of
5 record.

6 I can -- we can subpoena that too. I don't know if
7 it's from you or who, but it's a matter of record. It's
8 labeled, I believe, as a Jeffrey Cherry who is a good
9 friend with your friend James, I believe you went to law
10 school with that's down in Columbia or something. That's
11 how it was addressed to me. So that's how it come to me,
12 but everything you're repeating to me now is on that. It's
13 on the jail kiosk.

14 Q This is the guy from the University of South Carolina
15 Law School that you're saying said all of this?

16 A No, sir. I'm saying that you said it, via through
17 someone else.

18 Q Okay. Let's get back to the case itself here, sir, if
19 you can.

20 So you've listened to the interview that Investigator
21 Guest did.

22 A I have not listened to the interview; I have not
23 listened to any audio; I have not seen any video other than
24 the body cams I have through the U.S. District Court, sir.

25 I have no discovery provided by your office, violation

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 of Rule 5. I have no discovery provided by this gentleman.
2 Any discovery I have is through the efforts and people at
3 the police department who have shown me mercy and grace in
4 me asking them for stuff.

5 I have the warrant that Mr. Guest did that's facially
6 invalid. I've got it right there. I can show it to you.
7 It doesn't name the place.

8 My daddy on the phone, on the secure's phone, told me
9 that that store'd been robbed. Nobody else. Not one
10 warrant's ever been served on me or executed on me as a
11 matter of law. None. Not the first one.

12 That warrant right there that we're talking about
13 right here is facially invalid, Cancel 5, the facially
14 invalid warrant doctrine. It's null and void.

15 Q Okay. You know about the robbery we're talking about.

16 A I don't have a clue what you're talking about because
17 you're all over the place.

18 Q Okay. So you've seen the video of the store.

19 A I have not seen those videos, sir. And there is no
20 clocked date stamp on that that you just held up in front
21 of me. I don't see it.

22 I did video and security for Laurens County for eight
23 years. All security video has a date clocked stamp on it,
24 sir.

25 Q And you told Investigator Guest about the Laurens

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 County Sheriff's Department, didn't you?

2 A I've told everybody I've talked to. I just told you
3 about it, sir, but I do not recall this gentleman right
4 here.

5 Q You don't --

6 A Wouldn't it even be better for me to say, yeah, I
7 remember it and I said this and I said -- wouldn't that
8 really be better? I'm telling you I do not recall this
9 gentleman. I do not recall him. I do not recall it, sir.
10 I'm sorry. I recall telling everybody, hey, they beat me
11 up. I recall telling everybody.

12 Q How's things on the audio that there's no way this
13 investigator could know about, about you working for
14 Laurens County Sheriff's Department?

15 A I have not heard. I told him December 15th that I
16 worked for Laurens County.

17 Q Well, we can play that for you right now if that's an
18 issue.

19 A Well, is that lawful? Shouldn't I have had an
20 opportunity to do that? And he already testified under
21 oath that there's nobody but he and me. What's the
22 guarantee that you or somebody -- it's not your voice on
23 there? I mean, it's easy. I mean, what witness do you
24 have? Even on your statement it's got a place for a
25 witness, and even a notary.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 MR. BARNETTE: May I borrow Court's Exhibit 1 for a
2 second? Thank you.

3 Your Honor, permission to publish Court's Exhibit
4 No. 1.

5 THE COURT: You may.

6 THE WITNESS: May I ask a question? No?

7 THE COURT: About what?

8 THE WITNESS: I just want to ask why I was questioned
9 and let go by Knisley when the description was that of an
10 older black man. I was cleared, my vehicle cleared.

11 THE COURT: That's not in response to anything that's
12 been asked.

13 THE WITNESS: Oh, all right.

14 (Whereupon, Court's Exhibit No. 1 was played.)

15 Q whose voice is that, Mr. Wilbanks, to Investigator
16 Guest?

17 A I don't know. It's not mine. I been shot one time in
18 the upper left arm. I hadn't been shot five times.

19 Q But you just told us two earlier when you testified
20 with Mr. Snyder.

21 A Well, it's two bullet holes. I said there's two
22 bullet holes.

23 Q Okay.

24 A Don't twist what I say.

25 Q Okay. You keep changing your story, don't you? You

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 keep changing the story over and over again, don't you?

2 A You keep changing yours, sir. I do not remember this
3 gentleman at all. I do not recall that at all, sir. I do
4 not recall that.

5 Q Okay. So you don't recall it. So you're --

6 A I do not recall that, sir.

7 Q Okay.

8 A All I know is I hadn't been shot five times. So
9 that's not me. I have not been --

10 Q Well, you just told us. That's your voice, right?

11 A Well, if I -- if that were -- no. That's not my
12 voice. If that would have been me, listen, I'm -- like I
13 said, I might've said I bombed the White House in order to
14 keep somebody from beating me again. I might've did that.

15 I do not recall talking to you this gentleman. I'm
16 sorry. I do not recall speaking with this gentleman.

17 Q How -- how's he know --

18 A I'm sure if this gentleman would have knew, that I
19 would've told him that these police officers beat me up,
20 and him being a law abiding officer, I'm sure he would've
21 arrested them, because it's a felony. I mean, he looks
22 like -- like 17 years, wouldn't he've arrested them if he'd
23 talked to me and told him? Because I told everybody they
24 beat me up. So he couldn't've talked to me because he
25 didn't know they beat me up.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 Q well, you told him you ran from the police, right,
2 that night, that day?

3 A Sir, this is all about not -- not me driving off from
4 the police. This is all about me talking to this
5 gentleman.

6 I know everybody I talk to, I tell them they beat me
7 up. He is an officer of the Court. It is against the law,
8 and that makes him accessory to the felony, as well as
9 yourself, because it is a felony what those closed fists --
10 that's a deadly weapon. Nicholas Harakas. That taser,
11 butt end of that taser, my head, that's a deadly weapon.
12 Officer Pretlove. All right, sir. Those are felonies,
13 sir. 17-13-10 says I have a right --

14 Q Also a robbery -- also a robbery with a gun --

15 A. 17-13-10 says that I as a citizen have a right --
16 17-13-10 as a citizen says I have a right to arrest someone
17 I know that commits a felony.

18 How do I exercise that against you and against him,
19 against the sheriff? I've told the sheriff over a dozen
20 times. Me and the sheriff grew up together.

21 THE COURT: Excuse me. Just a minute. We need to get
22 back to the point of this hearing.

23 THE WITNESS: The point is I do not remember him, sir.

24 THE COURT: I'll tell you what the point is.

25 THE WITNESS: I'm sorry.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 THE COURT: The point of this hearing is to determine
2 the voluntariness of any statement. So let's confine the
3 testimony to that.

4 BY MR. BARNETTE

5 A I do not remember this gentleman, Mr. Barnette. I do
6 not remember him.

7 Q So you're denying that's your voice on the tape?

8 A Sir, I do not remember carrying on a conversation like
9 that. I do not recall that. I do not recall. So, yes, I
10 am denying because whoever's voice that is said that they
11 were shot five times. I got two bullet holes here where
12 the bullet went clean, in and out. I got two bullet-hole
13 wounds right there. I do not have any record of any other
14 bullet wounds. I'm saying that is not me. That is not me.
15 I did not say that, sir.

16 Q Was you treated at the hospital?

17 A Sir, I don't even recall the hospital. You know how I
18 know I went to the hospital? I have a hospital gown and I
19 have medical records right there.

20 Q Do you remember --

21 A I have a hospital gown. They took all my clothes,
22 whoever it was. I presume it's the officer who beat me. I
23 presume that's who took all my clothes and my shoes, all of
24 them. I don't have a copy of a search warrant or anything
25 from them to take it, but I don't even know when they took

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 it.

2 All I -- and my teeth. My teeth fell out. I don't
3 know in the car or hospital or whatever. I had plenty of
4 nice teeth, but I had a big mark on my chin from the --
5 from the beating which is shown on there. And then I don't
6 know when I lost my crowns. I don't -- I don't recall that
7 either. They's a lot I don't recall.

8 I didn't -- I didn't even know who I was. I didn't
9 even know who I was for over a month basically. I'm just
10 being led around by the hand. I wouldn't even ate at the
11 jail if they didn't wake me up because I was under a
12 concussion, and they made me eat.

13 Q So your testimony today is you don't remember anything
14 for a month then. Is that your testimony?

15 A No, that is not my testimony. My testimony is that
16 the Lord has healed me from the concussion, and my memory
17 is good, and I do not recall talking to this gentleman. I
18 do not recall it.

19 I recall getting the hell beat outta me out there in
20 the middle of Interstate 85. I recall that real well
21 because I was begging for my life, and I was not resisting
22 at all.

23 Q Do you remember talking to the officers out there at
24 the interstate after you was arrested?

25 A I don't recall that either. I -- I recall being

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 slumped over in a car. I don't know how long I was there.
2 I recall them getting me out and somebody taking pictures
3 of my injuries, of my back.

4 I recall E.M.S. talking to me, and I was begging them
5 to take me to the hospital and -- and I recall the
6 sheriff's office said we're not going to let y'all take
7 him. I recall -- I don't know what people is who, but I'm
8 sitting there listening. And as I recall, a corporal stood
9 beside me, and he said you all right. And I says no, I'm
10 not. I said this is all crazy stupid. He said to say the
11 least. And he said don't take him nowhere. I recall that,
12 that he had called E.M.S.

13 They was not even going to call E.M.S. and take me to
14 the hospital. They said even on the body cams that I've
15 seen, they said that they were just going to take me. I
16 don't know which body cam it is. But they were just going
17 to go ahead and take me in and he stopped them from doing
18 that.

19 Q They did give you a -- drink a bottle water out there,
20 didn't they?

21 A After about ten minutes me begging for it. They let
22 me sit in the road seven minutes, handcuffed in the road,
23 telling me to shut up and -- and I'm begging them why are
24 y'all doing this to me, why are y'all doing this to me. I
25 was begging them.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 Q Didn't you tell them you had COVID?

2 A You got a record of that, sir?

3 Q Well, it's on the body-cam videos you supposedly
4 watched.

5 A That's not on my body-cam videos. And I was driving
6 my dad's truck, and they didn't take anything off me.

7 I'm -- I'm in the middle of the interstate hurting.

8 Q Uh-huh.

9 A That's my dad -- now, my dad's been charged for drugs
10 and worked with SLED. They was actually a G.P.S. realtime
11 tracker on that that my dad was allowed to come to the
12 evidence. Is it in there?

13 He was allowed to come to the evidence and go through
14 the evidence and remove the things he wanted out of the
15 truck, but they wouldn't let him remove anything else out
16 of it, but they did allow my dad to come and -- and some
17 police officer -- I don't know if it was him or who -- said
18 that that's when I found out that my dad told me the place
19 had been robbed and said a police officer said they had to
20 beat me up because I was fighting them when I got out.
21 Now, this is all securest records of the jail records,
22 because this is evidence that can be presented.

23 And my dad also said that they said that the lady at
24 the store -- Indian lady -- said that I came in there every
25 day and that I was a regular customer. There's no evidence

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 of that on body cam. In fact, she said it was a black
2 male. Clothes are different than mine.

3 MR. BARNETTE: Your Honor, I'm going to object to
4 everything his dad told him.

5 A Well, it's a matter of record. The judge said that if
6 I had evidence.

7 THE COURT: No. I didn't say that.

8 You need to respond to the question that's being asked
9 and don't go off on a tangent.

10 THE WITNESS: Yes, sir.

11 BY MR. BARNETTE

12 Q Okay. What's amazing is you want to remember what you
13 want to remember. Anything that's bad for you, you don't
14 remember anything, do you?

15 A Well, sir, since...

16 THE WITNESS: Can I comment to that?

17 A What's amazing is you want to cover up the police
18 brutality done to me.

19 THE COURT: Well, Mr. Wilbanks --

20 A That's amazing.

21 THE COURT: Mr. Wilbanks, don't interrupt me and
22 follow instructions.

23 THE WITNESS: Yes, sir.

24 THE COURT: He didn't ask a question.

25 So ask him a question if you want to.

Timothy Wayne Wilbanks (In-camera)
Cross-examination by Mr. Barnette

1 That was a statement.

2 MR. BARNETTE: Yes, sir.

3 BY MR. BARNETTE

4 Q why do you remember certain things after supposedly
5 this beating you took and certain things you don't
6 remember?

7 A That's your question?

8 Q Yes.

9 A Okay. According to mental health, extreme duress and
10 extreme P.T.S.D, that is a common factor. You can talk to
11 Ms. Margaret Adams, which we're going to bring her to
12 testify, and Ms. Christine Washington, both of mental
13 health.

14 That is a [sic] issue with people with P.T.S.D. and
15 extreme duress. That is a [sic] issue that they remember
16 things.

17 I can remember some phone numbers that I've called ten
18 years ago for one time, but then I can't even remember a
19 phone number that I called 15 minutes ago.

20 I can't answer that other than I am diagnosed
21 suffering from extreme P.T.S.D. and extreme duress. The
22 extreme duress was brought on by the beatings of these
23 officers and like you all can't remember that. And that
24 just like I have selective memory, seems like you have
25 selective memory about what your oath of office says and

1 what the law is. We know that the law is good if one uses
2 it lawfully, but you refuse that.

3 MR. BARNETTE: I don't have any further questions,
4 Your Honor.

5 A You refused.

6 MR. SNYDER: No, sir. No more.

7 THE COURT: All right. You can step down,
8 Mr. Wilbanks.

9 Mr. Snyder, do you have anything else?

10 MR. SNYDER: No, sir. Nothing further in this matter.

11 THE COURT: Do you have any -- do you have any
12 evidence from any personnel providing treatment or
13 observation at the hospital that would be relevant on the
14 point as to whether or not Mr. Wilbanks was able to
15 comprehend and understand and respond appropriately to any
16 questions posed by either hospital personnel or by law
17 enforcement?

18 MR. SNYDER: No, sir.

19 THE COURT: Okay. Anything further?

20 MR. BARNETTE: No, sir.

21 THE COURT: All right. Well, based upon the testimony
22 and evidence presented, which includes the Court's Exhibit
23 No. 1, which is an audio recording of a statement alleged
24 to have been made by the defendant pursuant to an interview
25 by Officer Guest -- and I've heard the audio and it does in

1 my view establish that Mr. Wilbanks was being interviewed
2 by Officer Guest and that the statements made by
3 Mr. Wilbanks appear to be appropriate in response to
4 questions asked.

5 He appeared to be calm; he appeared to be collected;
6 he appeared to be in control of his faculties. His
7 responses, as I say, were appropriate to the questions
8 posed.

9 And while Mr. Wilbanks was and should be considered to
10 be in custody at the time, it's clear from the testimony,
11 as well as the audio, that Mr. Wilbanks was understanding
12 warnings provided pursuant to Miranda vs. Arizona, that he
13 had heard them more than once and that Officer Guest again
14 provided Mr. Wilbanks his Miranda warnings.

15 Mr. Wilbanks clearly appeared to understand them
16 suggesting that Mr. Guest not have no need to provide them
17 again because he'd already received them and knew what they
18 were.

19 Notwithstanding that fact, Mr. Guest did provide them
20 to Mr. Wilbanks who sounded and appeared to be
21 comprehending the information and understanding it.

22 There does not appear to be any evidence that would
23 reflect that Mr. Wilbanks was not in full control of his
24 faculties, understanding what was occurring that day and
25 did not understand the questions that Mr. Guest was asking

1 or the information that Mr. Wilbanks was providing, and
2 therefore does not appear to have any cognitive deficiency
3 which would prevent him from being able to offer a
4 statement freely and voluntarily and cogently.

5 There is no evidence in the record to reflect that any
6 statement claimed to have been made by the state to
7 Mr. Guest was the result of any promise or pressure or
8 coercion but was a free and voluntary decision on the part
9 of Mr. Wilbanks to provide the information.

10 And so considering the totality of the circumstances
11 surrounding the making of the statement, I do find that it
12 was voluntary, it was freely, knowingly and intelligently
13 made and therefore will be permitted to be admitted before
14 the jury in a fashion that does not present information
15 that's contained on the audio or any other form that would
16 not be admissible into evidence, which would include his
17 reference to prior offenses, as well as to prior
18 convictions and prior sentences.

19 I assume that those matters have been redacted from
20 the Court's Exhibit No. 1.

21 MR. BARNETTE: It has, Your Honor.

22 The only thing that may come up is that he talks about
23 being shot. Officer/Investigator Guest asked him about,
24 you know, are you okay, are you injured or anything. And
25 he said I'm -- basically, he says he's fine, but he goes

1 into these other things, you know, the shot-twice, shot
2 five times, things like that.

3 I don't how to possibly redact that because of the
4 answering to the question he's fine except for he had these
5 previous injuries. So I didn't know how the Court wanted
6 us to handle that.

7 I've shared that with Mr. Snyder. It may be something
8 we can talk more about it after lunch after he gets a
9 chance to listen to the redacted version. But from
10 there -- I did redact, obviously, the previous armed
11 robbery he has, mentioned Tony Bradley. That occurred in
12 2002 and '03, Your Honor, from there.

13 I also redacted. There's another mention about
14 another armed robbery that was done at the spa, Your Honor
15 Asian Spa, in this case. That's been redacted out of it
16 also.

17 THE COURT: well, I'll allow Mr. Snyder the
18 opportunity to listen to the redacted version with
19 Mr. Wilbanks, and then I'll be glad to hear any suggestions
20 or motions in that regard.

21 MR. SNYDER: I'm sorry, Judge.

22 He just gave me a piece of paper. I caught most of
23 that. I didn't catch the last bit.

24 THE COURT: Mr. Barnette has redacted the exhibit
25 which is marked Court's Exhibit No. 1, a portion of which

1 was just played.

2 He has redacted matters that he believes would be
3 excluded should the statement be introduced into evidence.
4 And so he's going to provide you with the redacted copy of
5 that audio so that you can determine whether or not there's
6 anything else that you feel should not be provided to the
7 jury by way of that audio.

8 MR. SNYDER: Yes, sir.

9 He gave me a disc shortly before we got started. I'm
10 going to listen to it when we recess.

11 THE COURT: Okay. And you'll share that with
12 Mr. Wilbanks.

13 MR. SNYDER: Yes, sir.

14 MR. BARNETTE: And, Your Honor, for the record, all
15 the discovery has been shared with the defense in this
16 case. And I know what Mr. Wilbanks alleges, but that is
17 the record that shows that.

18 THE COURT: Well, I'm assuming that Mr. Snyder made a
19 request for discovery and that you provided that discovery
20 to Mr. Snyder.

21 MR. BARNETTE: I did, Your Honor. As a matter of
22 fact, Mr. Snyder by order of the court has provided me a
23 copy of the drug report that we provided to him that has
24 obviously been lost in the ransomware.

25 THE COURT: Right. Anything else?

1 MR. SNYDER: No, sir.

2 THE COURT: All right. Well, this matter is in recess
3 until 2:30 at which time y'all can let me know about the
4 redacted audio. But I'll be back at 2:00 o'clock for the
5 pro se docket call. This matter is in recess until 2:30.

6 (Whereupon, a recess was taken.)

7 THE COURT: We are ready for Wilbanks?

8 MR. BARNETTE: Yes, sir, Your Honor.

9 THE COURT: Any matters we need to address before the
10 jury comes in?

11 MR. BARNETTE: None from the state, Your Honor.

12 THE COURT: Could we have him come around?

13 (Pause.)

14 THE COURT: All right. We are back in the case of the
15 State vs. Timothy Wayne Wilbanks.

16 Prior to breaking for lunch we discussed the redacted
17 audio, Court's Exhibit No. 1.

18 Have y'all reviewed that audio, Mr. Snyder?

19 MR. SNYDER: Yes, sir. Mr. Wilbanks and I listened to
20 it prior to coming into the courtroom, and it sounds fine.

21 THE COURT: All right. Any other matters we need to
22 address before the jury is brought around?

23 MR. BARNETTE: None, Your Honor.

24 I did mark as State's Exhibit 1 I'll introduce at the
25 appropriate time, Your Honor, the redacted video. Of

1 course the complete video is Court's Exhibit No. 1 -- or
2 not video -- audio.

3 THE COURT: Have there been any negotiations in this
4 case?

5 MR. BARNETTE: No, sir. He can plead straight up to
6 all of these charges.

7 THE COURT: So there hasn't been any offers at any
8 time.

9 MR. BARNETTE: No, sir. Like I said, I understand
10 he's not willing to plead guilty to anything, so.

11 THE COURT: That's fine. I didn't know if there had
12 been or not. I just wanted -- if there had been, I just
13 wanted to be sure we had that on the record.

14 MR. BARNETTE: Yes, sir. There -- well, there has
15 been LWOP notice served on him, life-without-parole notice
16 served on the defendant, as well as Mr. Snyder in this
17 case. And if he's convicted of the armed robbery, then
18 there will be an LWOP in that situation. So I did offer to
19 withdraw the LWOP if he would plead guilty.

20 THE COURT: That's what I'm asking you.

21 So if Mr. Wilbanks were to plead guilty the
22 life-without-parole notice would be withdrawn?

23 MR. BARNETTE: Well, if we're starting the trial, all
24 bets are off. So he'd have to --

25 THE COURT: I'm talking about now.

1 MR. BARNETTE: Yes, sir.

2 THE COURT: What's the situation right now?

3 MR. BARNETTE: If he does not accept that offer he
4 has, then we'll -- we'll withdraw any offer.

5 THE COURT: Right.

6 MR. BARNETTE: We'll go forward on the LWOP notice.

7 THE COURT: All right.

8 MR. BARNETTE: And for the record, Your Honor, there
9 is other charges. The other charges, we're going forward
10 with the trial. There's two other armed robberies and a
11 burglary first that he's also been charged with.

12 THE COURT: All right. And what is the status of
13 those cases?

14 MR. BARNETTE: They're pending, Your Honor. We
15 decided to go forward on this case. They are from
16 different times.

17 THE COURT: What's the status of those as it relates
18 to the plea offer?

19 MR. BARNETTE: He'd have to plead to everything
20 straight up, Your Honor.

21 THE COURT: So the offer was if he pleads guilty to
22 everything the notice of your intent to seek life without
23 parole will be withdrawn.

24 MR. BARNETTE: That's correct, Your Honor.

25 THE COURT: All right. Mr. Snyder, you've talked to

Jury qualification

1 Mr. Wilbanks about that?

2 MR. SNYDER: Yes, sir.

3 THE COURT: And what has he told you he wishes to do
4 about it?

5 MR. SNYDER: He -- he just told me that he would like
6 to go forward with the trial.

7 THE COURT: All right. So he's rejecting the state's
8 plea offer?

9 THE DEFENDANT: Me, sir?

10 THE COURT: Well, yeah. I'm asking Mr. Snyder first.

11 MR. SNYDER: Yes, sir.

12 THE COURT: I'll ask you next. He's told you he
13 rejects the offer?

14 MR. SNYDER: Yes, sir.

15 THE COURT: Is that accurate, Mr. Wilbanks, or do you
16 need to talk to Mr. Snyder about it?

17 THE DEFENDANT: I really would like to talk to Mr.
18 Snyder and go over the entire discovery from the case.

19 I haven't been afforded that opportunity in 19 months.
20 I have not been afforded that opportunity.

21 THE COURT: Okay. But my question -- well, is that
22 going to change your mind about the plea offer?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. So he's rejected the offer.

25 Mr. Snyder, have you and Mr. Wilbanks been over the

Jury qualification

1 discovery in this case?

2 MR. SNYDER: I've been up to see him. I've sent him
3 discovery.

4 Some of our meetings are not as productive as I'd
5 hoped, but he has been made aware what's against him and
6 he's had the opportunity to see video and listen to the
7 redacted version of the statements he made. So I believe
8 he should be up to speed with everything that the state
9 has, right.

10 THE COURT: And you're prepared to go forward today?

11 MR. SNYDER: Yes, sir.

12 THE COURT: All right.

13 MR. BARNETTE: And, Your Honor, we're withdrawing the
14 offer at this time and going forward on the LWOP notice.

15 THE COURT: All right. The offer is withdrawn.

16 All right. We ready for the jury?

17 MR. BARNETTE: The state's ready, Your Honor.

18 THE COURT: Bring them in -- the jury.

19 MR. SNYDER: Judge, just to let you know, I think
20 Mr. Wilbanks will have -- when we're done selecting the
21 jury, he would like to address some issues.

22 THE COURT: All right.

23 (The following takes place in the presence of the jury
24 venire.)

25 THE COURT: Good afternoon, ladies and gentlemen.

Jury qualification

1 We are ready to begin with jury selection in the first
2 case that's going to require of your participation. The
3 title of that case is the State vs. Timothy Wayne Wilbanks.

4 During this process if you don't hear me or you don't
5 understand a question or you need a clarification of a
6 question, don't be shy. Let me know.

7 Raise your hand or stand, because I'm going to be
8 asking you questions prior to your jury selection to begin
9 this case, and it's important that I have all of the
10 information I need and that you have provided all of the
11 information you need to provide before that process begins.

12 So be sure to let me know if you don't hear a
13 question, don't understand a question or you need a
14 clarification of a question.

15 Okay. As I've said, we're ready to begin with the
16 trial of the case of the State vs. Timothy Wayne Wilbanks.

17 Mr. Wilbanks has been accused by the prosecution with
18 having committed five separate and distinct criminal
19 offenses, although they are alleged to have arisen out of
20 one particular event or a course of events which the state
21 alleges occurred back on November the 9th of 2021. But
22 there are five separate charges arising out of that event
23 or course of events, and the jury will be rendering
24 separate and distinct verdicts as to those separate and
25 distinct charges.

Jury qualification

1 I'm going to tell you what those charges are so that
2 you'll have an understanding of what the case is about,
3 because I'll be asking you other questions related to that.

4 One indictment charges Mr. Wilbanks with the crime of
5 armed robbery, the state alleging that on November the
6 9th of 2021 he did, while armed with a deadly weapon or
7 while alleging either by action or words that he was armed
8 while using a representation of a deadly weapon or some
9 object which a person present during the commission of that
10 robbery reasonably believed to be a deadly weapon, and that
11 he did take, steal and carry away currency from a person or
12 the presence of a person, that being Mayuriben
13 Kalepeshkumar Patel who was the owner or an employee of
14 Spartan Spot Convenience Store located at 7558 Asheville
15 Highway here in Spartanburg County.

16 They allege that he took U.S. currency by use of force
17 or violence or by intimidation with intent to steal that
18 property.

19 A second indictment charges Mr. Wilbanks with the
20 crime of failing to stop when signaled by a law enforcement
21 officer, the indictment alleging on the same day,
22 November 9 of 2021, Mr. Wilbanks did fail to stop a motor
23 vehicle that he was driving on a road or street or highway
24 here in Spartanburg County after he was signaled to do so
25 by a law enforcement vehicle using a siren or flashing

Jury qualification

1 light or both in violation of a particular code section.

2 A separate indictment charges Mr. Wilbanks with having
3 committed the crime of resisting arrest, the state alleging
4 on November 9, 2021, that Mr. Wilbanks did knowingly and
5 wilfully oppose and/or attempt to resist the efforts of
6 Nicholas M. Harakas who is a deputy sheriff with the
7 Spartanburg County Sheriff's Department to make a lawful
8 arrest of the defendant.

9 Another indictment charges Mr. Wilbanks with the crime
10 of possession with intent to distribute methamphetamine,
11 the state alleging by way of the indictment that
12 Mr. Wilbanks did here in Spartanburg County on or about
13 November the 9th of 2021, did possess some quantity of
14 methamphetamine and at the time he possessed he intended to
15 distribute it.

16 And the remaining indictment charges Mr. Wilbanks with
17 the crime of possession with intent to distribute
18 Clonazepam, the state alleging again on November 9, 2021,
19 that Mr. Wilbanks did possess some quantity of Clonazepam
20 and that at the time he possessed it he intended to
21 distribute it.

22 As to those indictments and as to each of the charges
23 contained therein Mr. Wilbanks has entered a plea of not
24 guilty.

25 A plea of not guilty places upon the state the burden

Jury qualification

1 of proving the allegations that they have made by way of
2 each of these indictments, the burden of proving each of
3 the essential elements of each crime that has been alleged
4 against the defendant; and therefore the burden is upon the
5 state to establish the defendant's guilt to the
6 satisfaction of 12 jurors beyond a reasonable doubt before
7 any verdict of guilty could be returned as to any of the
8 separate indictments.

9 The indictments are not evidence in the case. They
10 don't prove anything; they don't establish anything. They
11 are simply the charging paper much like an arrest warrant.
12 But before a person can be brought into the circuit court
13 to stand charged with a crime they have to be indicted by
14 the Spartanburg County Grand Jury. So those are the
15 indictments in this case.

16 Now, I'm going to be asking you some questions. I'll
17 be introducing -- I'll be introducing some people to you.
18 The purpose of the introductions is to find out if any
19 juror has any connection with anybody that's going to be
20 involved in this case or if you have any connection with
21 the offices by which or in which they are employed, because
22 I need to find out if you have a connection with anyone
23 involved, and that connection could be by blood or
24 marriage, could be by a professional association, could be
25 by attending church or school with a person, could be by

Jury qualification

1 working at the same place that they may work, could be by
2 socializing with a person.

3 But I need to find out if you have any connection
4 whatsoever with anyone that I'm going to be introducing to
5 you, as well as whether or not you have any connection with
6 any members of their respective families. I need to know
7 that connection also, because I need to have that
8 information to determine whether or not any connection you
9 might have would impair your ability --

10 JUROR NO. 4: I am Juror No. 4. Can I be excused to
11 the restroom, please?

12 THE COURT: Yes, ma'am. What's your number?

13 JUROR NO. 4: No. 4.

14 THE COURT: No. 4. Okay. No. 4.

15 Because I'm going to need to find out in case I didn't
16 say it, find out if there's any reason why you can't be
17 fair and impartial because of some connection that you
18 might have with a person involved in the trial of the case.
19 And then I'll have some other questions to ask you also.

20 So let me begin. As I told you, the defendant, the
21 person who is charged with the commission of these
22 offenses, is Timothy Wayne Wilbanks.

23 Mr. Wilbanks, if you will, please stand and face the
24 jury panel so that they may see who you are.

25 (Whereupon, the defendant stood.)

Jury qualification

1 THE COURT: All right. Thank you, sir.

2 Mr. Wilbanks is represented by Chad Snyder. Mr.
3 Snyder is a lawyer employed by the Seventh Judicial Circuit
4 Public Defender's Office.

5 (Whereupon, Mr. Snyder stood.)

6 THE COURT: Presenting the case on behalf of the state
7 is Barry Barnette, the Circuit Solicitor for the Seventh
8 Judicial Circuit.

9 (Whereupon, Mr. Barnette stood.)

10 THE COURT: I'm going recite a list of potential
11 witnesses. Each of these persons may be called; they may
12 not be called; but they all likely have some relevant
13 information that it might be necessary for them to present.
14 So perhaps all of them will be called to testify. Maybe
15 some will not. But I'm going to recite the entire list
16 because I don't know which ones may or may not be called.
17 But I also need to find out from this list if you have any
18 connection with any of these particular individuals.

19 And all of these people are not present in the
20 courtroom. So if you know somebody that has that name, you
21 go ahead and stand and let me know, and we'll try to narrow
22 down the identification of that person to find out if that
23 person is the same person that you might be familiar with.

24 And the person who I had previously identified by
25 reading an allegation in the indictment who is alleged to

Jury qualification

1 be the victim of the armed robbery is Mayuriben
2 Kalepeshkumar Patel.

3 Ms. Patel, if you will, please stand and face the jury
4 panel.

5 (Whereupon, the potential witness stood.)

6 THE COURT: All of the following witnesses that I'm
7 going to recite are employed by the Spartanburg County
8 Sheriff's Department -- Spartanburg County Sheriff's
9 Department.

10 Those include James Brewster; Christian Evangelista;
11 Nicholas Harakas; Marcus Miller; Daniel Pretlove; Sarah
12 Powell; Brandon Letterman; Michael Mapstone; Kevin Kyle;
13 Nick Federico; Jacob Jackson; Jeffrey Dail; Robert
14 Rosenberg; Jon Guest; Beth Stuart; Sheriff Chuck Wright;
15 William Parris; Joshua Christian.

16 Those appear to be all witnesses that are employed by
17 the Spartanburg County Sheriff's Department.

18 Also, potential witnesses include Ricky Chastain,
19 formerly of the Laurens County Sheriff's Department; Chris
20 Hudson, Laurens County Sheriff's Department; Joe Tyson,
21 Laurens County Sheriff's Department; David Lollis, Laurens
22 County Sheriff's Department.

23 Also, I have potential witnesses employed at the
24 Spartanburg County Detention Facility, and they include
25 Brian Licurs; Captain Hayes; Deputy Revon; Deputy Easter,

Jury qualification

1 Deputy Lopez.

2 Also have additional employees. Christian Washington;
3 Margaret McAdams; and Carol Fernandez.

4 Are there any other potential witnesses to be called
5 by the state?

6 MR. BARNETTE: None from the state, Your Honor.

7 THE COURT: By the defendant?

8 MR. SNYDER: No, sir.

9 THE COURT: All right. Anybody connected with any of
10 those individuals? If so, please let me know by standing
11 and identifying yourself by name and number.

12 JUROR NO. 145: Brian Sherman, Juror 145. I know
13 Mr. Pretlove. He does traffic at my school. He also does
14 security at ball games. So I know him very well.

15 THE COURT: All right. Is there anything about that
16 connection that would have any bearing upon your decision
17 or prevent you from being able to be fair and impartial if
18 you were called to serve?

19 JUROR NO. 145: No, sir. None at all.

20 THE COURT: All right. Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 63: Juror No. 63, Rebecca Friend. I have a
23 very close mutual friend with Sheriff Chuck Wright.

24 THE COURT: On the list?

25 JUROR NO. 63: Sheriff Chuck Wright and my boss are

Jury qualification

1 close personal friends.

2 THE COURT: Okay. Is there anything about that fact
3 that would affect your judgment in this case?

4 JUROR NO. 63: No, sir.

5 THE COURT: All right. Thank you. Be seated.

6 Yes, ma'am -- sir.

7 JUROR NO. 113: I'm Juror No. 113. My name is Bryan
8 Mulkey. I know Daniel Pretlove. We went to school
9 together at Ogden Academy.

10 THE COURT: Is that it?

11 JUROR NO. 113: Yes, sir.

12 THE COURT: Would that affect your judgment in this
13 case?

14 JUROR NO. 113: No, sir.

15 THE COURT: Thank you. Be seated.

16 Yes, ma'am.

17 JUROR NO. 12: Juror 12, Ashley Ballard. Beth Stewart
18 was my S.R.O. at my former school.

19 THE COURT: And would that have any bearing in your
20 decision in this case if you were selected?

21 JUROR NO. 12: No, sir.

22 THE COURT: Thank you. Be seated.

23 Next.

24 JUROR NO. 60: Marcus Ezell, Juror No. 60. Personal
25 relationship with Chuck Wright and former employee with --

Jury qualification

1 employer with Brian Lucas [sic].

2 THE COURT: Brian Lecurs?

3 JUROR NO. 60: Brian Lecurs, yes, sir.

4 THE COURT: All right. Anything about those
5 connections that would have any bearing in your decision?

6 JUROR NO. 60: Shouldn't, no, sir.

7 THE COURT: Thank you. Be seated.

8 Yes, sir.

9 JUROR NO. 68: Name is Kyle Gillespie. I'm Juror No.
10 68. Personal friends with Chuck Wright, Investigator
11 Guest, Investigator Logan and a couple of other ones that
12 were listed.

13 THE COURT: All right. Anything about those
14 connections that would affect your judgment in this case?

15 JUROR NO. 68: No, sir.

16 THE COURT: Thank you. Be seated.

17 Yes, sir.

18 JUROR NO. 180: Aaron Wrennall, 180. Former employee
19 of Chuck Wright. Deputy Mapstone. I think it was Deputy
20 Dail.

21 THE COURT: All right.

22 JUROR NO. 180: worked beside them.

23 THE COURT: Is there anything about those connections
24 that would affect your judgment in the case?

25 JUROR NO. 180: No, sir.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Now, this is -- these are cases that arise out of an
3 event which the indictments allege occurred back in
4 November of 2021.

5 And as I related earlier, it is alleged to have begun
6 as an armed robbery at a location on the Asheville Highway,
7 being the Spartan Spot Convenience Store here in
8 Spartanburg County.

9 And then the defendant is charged with failing to stop
10 when he was signaled to do so and resisting an arrest and
11 being found in possession of two drugs which the state
12 claims he intended to distribute.

13 Is there any member of the jury panel who thinks you
14 might have heard, seen or read anything that relates to
15 this particular case?

16 In other words, have you been exposed to any
17 information about this case from any source whatsoever,
18 whether it be television, radio, newspaper, somebody
19 talking about it at work or at home or school or church or
20 anywhere else? Anyone been exposed to any information that
21 relates to this particular case? If so, let me know of
22 that fact.

23 (No response.)

24 THE COURT: All right. Now, I'm going ask you a
25 question about yourself, as well as any members of your

Jury qualification

1 immediate family. An immediate family member is defined as
2 a parent or a spouse or a child or a sibling -- a parent or
3 a spouse or a child or a sibling, or you.

4 Have you or any members of your immediate family as I
5 just defined it ever been the victim of any type of violent
6 criminal offense? And those offenses include these types
7 of offenses: Murder, manslaughter, attempted murder,
8 kidnapping, assault and battery with intent to kill, armed
9 robbery, criminal sexual conduct, burglary first degree,
10 carjacking, domestic violence of a high and aggravated
11 nature or any other similar type of crime?

12 Have you or any members of your immediate family ever
13 been the victim of such or have you or any members of your
14 immediate family ever been accused of having committed
15 such? If so, I need for you to provide me with that
16 information.

17 And those who need to respond, you're welcome to
18 respond where you are, but if you don't feel comfortable in
19 responding where you are, feel free to step down here to
20 provide me with that information.

21 So if you don't have to come down here, I'm going to
22 assume that you feel comfortable telling me about it from
23 where you are.

24 Okay. I'll start with you, sir.

25 JUROR NO. 70: I'd like to come down there.

Jury qualification

1 THE COURT: All right. Tell us your name and number
2 before you come.

3 JUROR NO. 70: Megan Goodwin, No. 70.

4 THE COURT: Seventy?

5 JUROR NO. 70: Yeah.

6 THE COURT: All right.

7 (Bench conference held off the record with Juror No.
8 70 with counsel present.)

9 THE COURT: Next.

10 THE BAILIFF: Juror No. 39.

11 (Bench conference held off the record with Juror No.
12 39 with counsel present.)

13 THE COURT: Next.

14 THE BAILIFF: Juror No. 143.

15 (Bench conference held off the record with Juror No.
16 143 with counsel present.)

17 THE COURT: Next.

18 THE BAILIFF: Juror No. 55.

19 (Bench conference held off the record with Juror No.
20 55 with counsel present.)

21 THE BAILIFF: No. 97.

22 (Bench conference held off the record with Juror No.
23 97 with counsel present.)

24 THE COURT: Next.

25 THE BAILIFF: Juror No. 3.

Jury qualification

1 (Bench conference held off the record with Juror No. 3
2 with counsel present.)

3 THE BAILIFF: Juror No. 103.

4 (Bench conference held off the record with Juror No.
5 103 with counsel present.)

6 THE BAILIFF: No. 54.

7 (Bench conference held off the record with Juror No.
8 54 with counsel present.)

9 THE BAILIFF: 125.

10 (Bench conference held off the record with Juror No.
11 125 with counsel present.)

12 THE BAILIFF: 180.

13 (Bench conference held off the record with Juror No.
14 180 with counsel present.)

15 THE COURT: All right. Is that everyone that needs to
16 respond to that question?

17 (No response.)

18 THE COURT: Does any -- I introduced Solicitor
19 Barnette and Mr. Snyder, but does anyone, any member of the
20 jury panel, know anybody else employed in the Seventh
21 Judicial Circuit Solicitor's Office or the Seventh Judicial
22 Circuit Public Defender's Office?

23 All right. Yes, ma'am.

24 JUROR NO. 63: Rebecca Friend, Juror 63. I know Tyler
25 Swanson.

Jury qualification

1 THE COURT: Anything about that fact that would affect
2 your judgment in this case?

3 JUROR NO. 63: No, sir.

4 THE COURT: All right. Thank you. Be seated.

5 Is any member of the jury panel related to any, and
6 have you yourself ever been employed as a law enforcement
7 officer of any description, as well as are you related to a
8 person who has been or now is employed as any type of law
9 enforcement officer?

10 That includes, you know, sheriff's department, city
11 police department, town, municipal law enforcement
12 agencies, state law enforcement division, F.B.I., C.I. A.,
13 INTERPOL, any type of law enforcement agency. You -- have
14 you been so employed or do you have a relative that has
15 been?

16 All right. I'll just start with you, and I'll work my
17 way back, and I'll jump the aisle and I'll start on the
18 front row and work my way back.

19 Just tell me your name and number again, please.

20 JUROR NO. 70: Megan Goodwin, No. 70.

21 THE COURT: All right. Tell me how that's a
22 connection to you.

23 JUROR NO. 70: My brother is a police officer in North
24 Carolina.

25 THE COURT: In North Carolina. Just remain standing.

Jury qualification

1 Yes, ma'am.

2 JUROR NO. 94: Crystal Lindsey, 94. My uncle is a
3 police office in Duncan.

4 THE COURT: All right. Just remaining standing.

5 Yes, ma'am, or sir, whichever.

6 JUROR NO. 54: Fifty-four. My dad, as well as my
7 grandpa, former Spartanburg County.

8 THE COURT: Spartanburg County Sheriff's Department?

9 JUROR NO. 54: Yes, sir.

10 THE COURT: All right. Next.

11 JUROR NO. 3: Juror 3. My father is military police
12 and had an uncle that was a cop with Cynthiana, Kentucky.

13 THE COURT: All right. And I'm glad you mentioned
14 that. I'm talking about civilian and/or military police
15 too.

16 Yes, sir.

17 JUROR NO. 81: Juror 81. My brother-in-law, deputy
18 sheriff in Ohio.

19 THE COURT: All right. Jump the aisle. First row.

20 JUROR NO. 168: 168, Katie Watts. My dad was a former
21 Spartanburg City Police Department Officer.

22 THE COURT: Spartanburg City.

23 All right. Next row.

24 JUROR NO. 12: Twelve. My dad is retired, F.B.I. Task
25 Force. My brother is a current F.B.I. agent.

Jury qualification

1 THE COURT: All right. Next.

2 JUROR NO. 39: Thirty-nine, Rebecca Collins. I have a
3 cousin that's with the Anderson County Sheriff's
4 Department.

5 THE COURT: Next.

6 JUROR NO. 32: No. 32, Kiley Chesney. My father was
7 in the military and was a former police officer.

8 THE COURT: Here or somewhere else?

9 JUROR NO. 32: It was, I'm pretty sure, in Wellford.

10 THE COURT: Okay. Who is next on that row?

11 JUROR NO. 35: Thirty-five, Kaleb Coffin. My father
12 is the Chief of Police of Landrum.

13 THE COURT: All right. Next.

14 JUROR NO. 143: Samuel Sewell, 143. My wife has an
15 uncle who is part of the -- I think it's the sheriff,
16 county, is an officer for sheriff for Spartanburg County.

17 THE COURT: Okay. All right. Next row.

18 JUROR NO. 97: Ninety-seven, Jacob Martin. My uncle
19 was a police officer in Anderson County.

20 THE COURT: All right. Next on that row.

21 JUROR NO. 135: 135. My cousin, Anthony Gabriel,
22 works for Chesnee Police Department.

23 THE COURT: Next on that row.

24 JUROR NO. 46: Forty-six, Stacey Cummings. My
25 son-in-law is a federal marshal in Washington, D.C.

Jury qualification

1 THE COURT: Next on that row.

2 JUROR NO. 49: Forty-nine, Courtney DeShields. My
3 uncle is Rick McCraw with the coroner's office.

4 THE COURT: All right. Is that every on that row?
5 All right. Next row.

6 JUROR NO. 175: Rosemary Willis, 175. My brother is a
7 retired Army and my mother-in-law is retired from the
8 Sheriff's Department of Greenville County and my
9 sister-in-law still works for the Sheriff's Department in
10 Greenville County.

11 THE COURT: All right. Next on that row.

12 JUROR NO. 137: Jeffrey Sammons, 137. Former police
13 officer.

14 THE COURT: Did you say 137?

15 JUROR NO. 137: Former, yeah, 137.

16 THE COURT: All right. And what department?

17 JUROR NO. 137: Broward County Sheriff's Office.

18 THE COURT: Where?

19 JUROR NO. 137: Broward County Sheriff's Office.

20 THE COURT: Next on that row.

21 JUROR NO. 68: Your Honor, my name is Kyle Gillespie.
22 I'm Juror No. 68. Formerly employed, Lyman Police
23 Department, Spartanburg County.

24 THE COURT: All right. Next.

25 JUROR NO. 100: Sierra McGriff. I'm Juror No. 100.

Jury qualification

1 My uncle is an officer in Lexington County.

2 THE COURT: Where?

3 JUROR NO. 100: Lexington County.

4 THE COURT: All right. Next on that row.

5 JUROR NO. 60: Juror No. 60, Marcus Ezell. Former
6 Spartanburg City Police Officer, Spartanburg Detention
7 Center and City of Wellford.

8 THE COURT: All right. Next row.

9 JUROR NO. 79: Juror No. 79, Brandon Hensley. My
10 uncle was a deputy for the Town of Leansville in North
11 Carolina.

12 THE COURT: Next.

13 JUROR NO. 180: Aaron Wrennall, 180. Former deputy,
14 Spartanburg County Sheriff's Office. Father retired from
15 the city police here in Spartanburg.

16 THE COURT: All right. Next on that row.

17 JUROR NO. 171: Rebekah Wiles, 171. My dad is a
18 retired police officer for Rock Hill County.

19 THE COURT: For where?

20 JUROR NO. 171: Rock Hill city.

21 THE COURT: Rock Hill City in York?

22 Okay. Is that everybody? Anybody else need to
23 respond?

24 Okay. Now, those of you who have responded if that
25 connection would have no bearing in your decision and it

Jury qualification

1 would not interfere with your ability to be fair and
2 impartial if selected, you may have a seat.

3 If it would affect your judgment or would bear in your
4 ability to be fair and impartial, remaining standing.

5 Nobody is. Everybody sat.

6 As you likely are aware, the function of a jury is to
7 sit over there in the jury box and to listen to the
8 testimony and to consider the evidence introduced during
9 the trial.

10 The jury must accept the law as the Court provides it,
11 and then when the jury goes back to deliberate, you
12 consider all of the evidence. From that evidence you
13 determine the material facts that relate to each of the
14 charges, and upon deciding those material facts you apply
15 the law that the Court provides you in order to reach a
16 decision.

17 Is there any member of this jury panel that could not
18 follow those instructions and apply the law as the Court
19 will provide it to the jury? whether you agreed with it or
20 not, a juror must apply the law that the Court provides.
21 Is there any juror that could not follow that instruction?
22 If so, let me know.

23 (No response.)

24 THE COURT: Is there any member of the jury panel who
25 is not able to follow the instructions and is not able to

Jury qualification

1 make a decision as to a verdict in a criminal case? Any
2 juror that would be unable to accomplish that task? If so,
3 let me know -- based upon some personal belief or religious
4 belief.

5 All right. Yes, ma'am. Your number.

6 JUROR NO. 86: Eighty-six.

7 THE COURT: Eighty-six?

8 JUROR NO. 86: Addie Jones.

9 THE COURT: Did you say 86?

10 JUROR NO. 86: My number is 86, Addie Jones.

11 THE COURT: All right. Ms. Jones, you have a personal
12 belief or personal opinion satisfactory to yourself that
13 would prevent you from being able to render a verdict in a
14 criminal case?

15 JUROR NO. 86: Right, yes.

16 THE COURT: All right. We'll excuse you from service
17 in this case.

18 That's Juror 86.

19 Yes, sir.

20 JUROR NO. 97: Juror 97.

21 THE COURT: Don't go yet -- don't go yet. I'll let
22 you go in a minute.

23 What number?

24 JUROR NO. 97: Ninety-seven.

25 THE COURT: Ninety-seven. You heard the question I

Jury qualification

1 asked Ms. Jones. Are you standing because you're telling
2 me that you have personal beliefs or opinions about
3 whatever it might be that would prevent you from rendering
4 a decision in a criminal case?

5 JUROR NO. 97: Possibly. I could answer that yes,
6 yes.

7 THE COURT: Yes meaning what?

8 JUROR NO. 97: As an answer to your question, yes.

9 THE COURT: All right. Let me clarify my question.

10 My question is do you have certain opinions or beliefs
11 based on circumstances satisfactory to you that would
12 prevent you from being able to render a verdict in a
13 criminal case.

14 JUROR NO. 97: Yes, Your Honor.

15 THE COURT: Okay. Juror No. 97 is also excused from
16 service.

17 Y'all can have a seat.

18 Anybody else?

19 (No response.)

20 THE COURT: All right. Has anybody here already
21 formed an opinion as what you think the ultimate outcome
22 ought to be based upon what you've heard or seen up to this
23 point or based upon any other consideration? Have you
24 already made up your mind or formed an opinion as to the
25 ultimate decision? If so, let me know.

Jury qualification

1 (No response.)

2 THE COURT: None responding.

3 Does any juror know of any reason whatsoever why you
4 believe you could not be fair and impartial if you were
5 called upon to serve as a juror in this particular case and
6 be able to render a decision based upon the evidence
7 presented and the law that the Court would provide? Anyone
8 know of any reason why you cannot be fair and impartial in
9 this case and fulfill your duties as a juror? If so, let
10 me know of that fact.

11 (No response.)

12 THE COURT: None responding.

13 Any other questions requested by the state?

14 MR. BARNETTE: None from the state, Your Honor.

15 THE COURT: By the defendant?

16 MR. SNYDER: No, sir.

17 THE COURT: All right. Now, we're going to select a
18 jury, and the way that's done is the computer of course has
19 all of your names in it and the computer will select a list
20 to be drawn randomly from your names. And as your name is
21 selected by the computer you'll be called to come forward.
22 You'll see the bailiff standing in the floor there. You'll
23 come up and stand by the bailiff.

24 Each side has an opportunity to have you seated for
25 service in the case or to have you excused from service in

Jury qualification

1 the case.

2 If either side asks that you be excused, just go back
3 and have a seat where you are now.

4 If both agree to have you seated for service in the
5 case, you'll be having a seat in that jury box to your
6 right and to my left.

7 So please come forward as your name is called, and
8 you'll be instructed whether you have been excused from
9 service in the case or seated for service in the case.

10 THE CLERK: Juror No. 23, Brianna Boling.
11 What says the state?

12 MR. BARNETTE: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. SNYDER: Please seat this juror.

15 THE CLERK: No. 167, Stephanie walker.

16 MR. SNYDER: 167?

17 THE CLERK: Yes.

18 What says the state?

19 MR. BARNETTE: Please present the juror.

20 THE CLERK: What says the defense?

21 MR. SNYDER: Please seat this juror.

22 THE CLERK: No. 25, Anna Grace Bridges.

23 What says the state?

24 MR. BARNETTE: Please present the juror.

25 THE CLERK: What says defense?

Jury qualification

1 MR. SNYDER: Please seat this juror.

2 THE CLERK: 143, Samuel Sewell.

3 what says the state?

4 MR. BARNETTE: Please present the juror.

5 THE CLERK: what says defense?

6 MR. SNYDER: Please excuse this juror.

7 THE CLERK: No. 79, Brandon Hensley.

8 what says the state?

9 MR. BARNETTE: Please present the juror.

10 THE CLERK: what says the defense?

11 MR. SNYDER: Please seat this juror.

12 THE CLERK: 123, Benny Payne, Jr.

13 what says the state?

14 MR. BARNETTE: Please strike. Please excuse the juror
15 in this case.

16 THE CLERK: 182, Callie Yarbrough.

17 what says the state?

18 MR. BARNETTE: Please present the juror.

19 THE CLERK: what says the defense?

20 MR. SNYDER: Please seat this juror.

21 THE CLERK: 110, Karley Moore.

22 what says the state?

23 MR. BARNETTE: Please present the juror.

24 THE CLERK: what says the defense?

25 MR. SNYDER: Please seat this juror.

Jury qualification

1 THE CLERK: 126, Linzy Peeler.
2 what says the state?
3 MR. BARNETTE: Please present the juror.
4 THE CLERK: What says the defense?
5 MR. SNYDER: Please seat this juror.
6 THE CLERK: 68, Kyle Gillespie.
7 what says the state?
8 MR. BARNETTE: Please present the juror.
9 THE CLERK: What says the defense?
10 MR. SNYDER: Please excuse this juror.
11 THE CLERK: 60, Marcus Ezell.
12 what says the state?
13 MR. SNYDER: Sorry. What was that number again?
14 THE CLERK: No. 60.
15 what says the state?
16 MR. BARNETTE: Please present the juror.
17 THE CLERK: What says the defense?
18 MR. SNYDER: Please excuse this juror.
19 THE CLERK: 81, Mark Homan.
20 what says the state?
21 MR. BARNETTE: Please present the juror.
22 THE CLERK: What says the defense?
23 MR. SNYDER: Please seat this juror.
24 THE CLERK: 105, Rachel McRoberts.
25 what says the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What says defense?

3 MR. SNYDER: Please seat this juror.

4 THE CLERK: 99, Melissa Taylor.

5 What says the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: What says defense?

8 MR. SNYDER: Please seat this juror.

9 THE CLERK: 149, Jamison Solesbee.

10 What says the state?

11 MR. BARNETTE: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. SNYDER: Please excuse this juror.

14 THE CLERK: 129, Rama Robinson.

15 What says the state?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. SNYDER: Please seat this juror.

19 THE CLERK: 82, Elizabeth Hunter.

20 What says the state?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. SNYDER: Please excuse this juror.

24 THE CLERK: 35, Kaleb Coffin.

25 What says the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.

2 THE CLERK: What says defense?

3 MR. SNYDER: Please excuse this juror.

4 THE CLERK: 44, Antonio Craig.

5 What says the state?

6 MR. BARNETTE: Please excuse this juror from service.

7 THE CLERK: 49, Courtney DeShields.

8 What says the state?

9 MR. BARNETTE: Please present the juror.

10 THE CLERK: What says the defense?

11 MR. SNYDER: Please excuse this juror.

12 THE CLERK: 175, Rosemary Willis.

13 What says the state?

14 MR. BARNETTE: Excuse this juror from service.

15 THE CLERK: 176, Jamie Winters.

16 What says the state?

17 MR. BARNETTE: Please present the juror.

18 THE CLERK: What says defense?

19 MR. SNYDER: Please excuse this juror.

20 THE CLERK: 154, Zachary Strehl.

21 MR. SNYDER: What number?

22 THE CLERK: 154.

23 What says the state?

24 MR. BARNETTE: Please present the juror.

25 THE CLERK: What says defense?

Jury qualification

1 MR. SNYDER: Please seat this juror.

2 THE CLERK: Your Honor, this is for the first

3 alternate.

4 145, Brian Sherman.

5 what says the state?

6 MR. BARNETTE: Please present the juror.

7 THE CLERK: what says the defense?

8 MR. SNYDER: Please seat this juror.

9 THE CLERK: 31, Ciemilya Carter.

10 what says the state?

11 MR. BARNETTE: Please excuse this juror from service.

12 THE CLERK: 94, Crystal Lindsey.

13 what says the state?

14 MR. BARNETTE: Please present the juror.

15 THE CLERK: what says defense?

16 MR. SNYDER: Please excuse this juror.

17 THE CLERK: 113, Bryan Mulkey.

18 what says the state?

19 MR. BARNETTE: Please present the juror.

20 THE CLERK: what says defense?

21 MR. SNYDER: Please excuse this juror.

22 THE CLERK: 15, Grayson Bateman.

23 what says the state?

24 MR. BARNETTE: Please present the juror.

25 THE CLERK: what says defense?

Jury qualification

1 MR. SNYDER: Please excuse this juror.

2 THE COURT: Wait just a minute.

3 MR. BARNETTE: Your Honor, he can't.

4 THE COURT: Didn't we strike him for cause?

5 MR. SNYDER: No, sir. He can be seated.

6 THE COURT: All right. Have a seat.

7 THE CLERK: Your Honor, the jury selection is
8 complete.

9 (Whereupon, a jury was impaneled.)

10 THE COURT: All right. Those who have been selected,
11 I'll ask you to please go with the bailiff to a jury room,
12 and I'll bring you back in just a few minutes.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Let me see the lawyers just a minute.

16 (Bench conference held off the record.)

17 THE COURT: Any matters that need to be addressed
18 regarding jury selection by the state?

19 MR. BARNETTE: None from the state, Your Honor.

20 THE COURT: By the defendant?

21 MR. SNYDER: No, sir.

22 (Whereupon, the remaining members of the jury venire
23 were excused.)

24 THE COURT: Any matters to address? My proposal is we
25 bring the jury back and excuse them for the afternoon and

Jury qualification

1 start first thing in the morning at 9:30.

2 MR. SNYDER: Yes, sir.

3 As I said before, I think Mr. Wilbanks has some
4 matters he would like to bring up, but I don't see any
5 reason for the jury to stay here.

6 THE COURT: We can address those when the jury leaves.

7 MR. SNYDER: Yes, sir.

8 THE COURT: Okay. Bring the jury in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Ladies and gentlemen, due to the hour
12 we're going to begin with the trial in the morning at 9:30.

13 You haven't heard any testimony; you haven't seen any
14 evidence to be introduced. But notwithstanding that fact,
15 you still can't talk about the case in any fashion because
16 you've heard something about it. But you're never
17 permitted to talk about the case while the trial is in
18 progress. You're not ever to allow anyone to discuss it
19 with you, because you have to base any decision you make
20 upon what you see and hear during the trial, and you're not
21 to be influenced by any outside or extraneous information.

22 So do not discuss the case in any fashion whatsoever
23 with any person whatsoever during the overnight recess or
24 at any other time until you've been instructed to begin
25 jury deliberations. And that of course won't be until the

Jury qualification

1 end of the trial after all of the evidence has been
2 received and I have instructed you on the law and I've
3 asked you to begin deliberations.

4 Also, as I say, you have to base your decision upon
5 what you see and hear during the trial by testimony and
6 evidence presented.

7 You're not permitted to supplement your wealth of
8 knowledge by doing your own research or doing your own
9 investigation into any issue.

10 You can't consult social media to try to find out
11 anything about the case should there be something out
12 there. Again, under your oath as a juror you have to
13 decide the case upon what you see and hear during the
14 trial. You cannot allow yourself to be exposed to any type
15 of outside information.

16 So no discussions, no research, no investigation, no
17 media exposure or coverage, no social media research
18 either.

19 With that, have a good afternoon. Please report to
20 your jury room at 9:30 in the morning. 9:30 in the
21 morning. Have a good afternoon.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: All right. Do we have any matters to
25 address before we recess?

Jury qualification

1 MR. SNYDER: Mr. Wilbanks, is there anything you would
2 like to put on the record before we get started?

3 (Pause.)

4 MR. SNYDER: Mr. Wilbanks informs me there's a
5 conflict of interest in this matter that he would like to
6 address.

7 THE COURT: A conflict as to who or what?

8 MR. SNYDER: Apparently me, Judge.

9 THE COURT: Oh, all right. Mr. Wilbanks, what do you
10 want to tell me?

11 THE DEFENDANT: Your Honor, every time that I've
12 spoken with Mr. Snyder there's been an issue, and I've
13 questioned him all along.

14 It seems there is somewhat impairment at times and
15 slurred of speech. I have a concern about his competence
16 level, and he refuses to bring up the fact that I was
17 questioned and cleared. My identification was cleared and
18 the vehicle cleared and let go the morning of this
19 incident. I was let go. And he refuses to bring that up.

20 And he also refuses to bring up that the police
21 officers that arrested me in the middle of Interstate 85 --
22 he refuses to bring up the misconduct about where they
23 committed an assault and battery, at very least attempted
24 murder, about where the taser got busted in my head and I
25 was tased in the back and the other officer hit me with a

Jury qualification

1 closed fist.

2 And there's one video cam missing off of the -- the
3 body cam of Officer Powell where she held her hand in front
4 of it and then panned the floorboard of the truck. And
5 they're saying something different was in the floorboard,
6 but her video cam will prove that what they're saying is
7 not true.

8 THE COURT: Well, Mr. Wilbanks, let me ask you this.

9 Don't you think that since the case hasn't even
10 started yet, don't you think it would be more appropriate
11 for Mr. Snyder to be able to examine those witnesses as to
12 those facts?

13 THE DEFENDANT: Well, he says he's not going to bring
14 up certain things like the difference in clothing. The
15 clothing that he showed me pictures of are not in evidence
16 nor -- I have a hospital gown from where the police beat
17 me, and they took all my clothes at the hospital. And the
18 clothes they took does not match the clothing that he
19 showed me in the video today, nor in those pictures.

20 THE COURT: All right. Well, Mr. Wilbanks, I'm going
21 to have to address that as time goes by.

22 THE DEFENDANT: Okay. Yes, sir.

23 THE COURT: But we can't do it pretrial because no
24 witness has even testified yet, so I don't know what Mr.
25 Snyder might --

Jury qualification

1 THE DEFENDANT: well, the deal about impairment, Your
2 Honor, the impairment, I have a strong issue about
3 impairment.

4 He's had some outbursts towards me several times with
5 his threats of a life sentence several times and how he's
6 wanted me to plead to a life sentence without parole
7 several times. And I'm like why am I going to plead to
8 something that, you know, and I mean, he -- he's worked as
9 a full extension of the prosecution and not an attorney for
10 me at all.

11 In 19 months he didn't question my mom and dad. Both
12 of them have died in the past ten months. Those were two
13 prime witnesses in my case. I've lost them.

14 The teeth that I'm missing from the police beating me,
15 and, I mean, he's not going to address these issues. He's
16 an officer of the Court and he has an obligation to that.
17 And I've been telling him there's no subject matter
18 jurisdiction because the Court was divested of it from the
19 moment the officers committed criminal acts against me.
20 And he won't even bring that argument up. But, again, Your
21 Honor, I understand maybe he will. But he's telling me he
22 won't, but subject matter jurisdiction.

23 THE COURT: well, he -- he may very well,
24 Mr. Wilbanks.

25 One thing you have to understand is you are not a

Jury qualification

1 lawyer.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Snyder is.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you have mentioned subject matter
6 jurisdiction. You just have to understand you can argue
7 that from now until Friday, but I most definitely have
8 subject matter jurisdiction in this case.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: So that's nothing you can argue. You're
11 not waiving anything by not raising it. I do have subject
12 matter jurisdiction. No question about it.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I don't know where you get that
15 information.

16 I know a lot of folks in the jail talk about it, and
17 they've been talking about that for years. I don't know of
18 a single case yet where a case has been overturned for lack
19 of subject matter jurisdiction in the circuit court.

20 So, you see, sometimes you get information from what
21 they used to call jailhouse lawyers.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And it's usually bad information. That's
24 why we have somebody who is not a jailhouse lawyer, who's
25 actually an outside lawyer, to assist you. And I recommend

Jury qualification

1 that you cooperate and work with Mr. Snyder, not against
2 him.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And I say that for this reason. In just
5 recent history I've had two cases where a defendant has
6 tried to fire his lawyer. As it turned out, they wanted to
7 have a lawyer, they didn't have time to get somebody else,
8 so they had to stick with them. And in those two cases the
9 defendant was not found not guilty, and that's because the
10 defendant began working with his lawyer, not against his
11 lawyer.

12 THE DEFENDANT: And, sir, I was trying --

13 THE COURT: The best chance you have is to work with
14 Mr. Snyder.

15 If something is wrong or he does something wrong,
16 there's ways for that to be corrected down the road, but
17 right now you're in a serious trial and you need to be
18 working together, not against one another.

19 THE DEFENDANT: I'm trying that, Your Honor.

20 THE COURT: All right. Well, let's good. That's what
21 you need to be doing.

22 THE DEFENDANT: That's what I'm trying to do, sir.

23 THE COURT: And let me address the thing too about him
24 talking to you about the potential sentences and all. Of
25 course that's past because the offer is gone.

Jury qualification

1 But a lawyer always has an obligation to talk to you
2 about offers that the state makes, and a lawyer always has
3 an obligation, if they have an opinion, as to what they
4 think you ought to do about it. But, as you know, you're
5 the person who always gets to make that choice.

6 So a lawyer can be emphatic about it. The lawyer
7 might even be overzealous about it. The lawyer might
8 insist upon it. That's fine because that's just the
9 lawyer's opinion. But, as you know, you always get the
10 final decision.

11 So I wouldn't attach too much significance to the fact
12 that Mr. Snyder has an opinion about what you ought to do.
13 Every lawyer usually does have an opinion, but that doesn't
14 mean that they're not willing to go forward and to assist
15 you to the best of their ability if you make a different
16 decision. And I'm guessing that's the case here.

17 So, anything else?

18 THE DEFENDANT: That's all, Your Honor. Thank you. I
19 appreciate that.

20 THE COURT: Okay. All right. Sure.

21 All right. Court is in recess until 9:30 in the
22 morning.

23 END OF PROCEEDINGS JUNE 12, 2023

24

25

Jury qualification

1 (Proceedings June 13, 2023)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Good morning.

5 Any matters to address before the jury is brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MR. SNYDER: None from the defense, Your Honor.

8 THE COURT: All right. Bring them in, and ask
9 Ms. Taylor to take the foreperson's seat.

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: Good morning ladies and gentlemen.

13 We are ready to begin with the trial of the case for
14 which each of you have been selected.

15 Ms. Taylor, I'm going to ask you to serve as the
16 foreperson of the jury, and as the foreperson you're going
17 to have three specific duties that the other jurors do not
18 have.

19 Number one, you'll serve as the spokesperson for the
20 jury, and that just means if something occurs during the
21 trial that needs to be brought to my attention -- that is
22 you or a fellow juror has some difficulty or problem or
23 question -- you're going to be the person to let me know of
24 that fact, and you will do that directly if you're here in
25 the courtroom. You'll do that through the bailiff if

Jury qualification

1 you're outside of the courtroom.

2 Secondly, you'll be called upon to preside over jury
3 deliberations when that time comes at the trial's
4 conclusion after all of the evidence has been received and
5 after I've instructed you on the law that's applicable in
6 these cases.

7 When you go back to begin deliberations you will be
8 called upon to preside over that process simply to ensure
9 that those deliberations are carried out in some orderly
10 fashion.

11 And, thirdly, you'll be actually writing the verdicts
12 or the decisions of the jury. You'll do that on a verdict
13 form that I'll provide you at the trial's conclusion on
14 which you will indicate the jury's unanimous decision as to
15 that particular charge.

16 The foreperson has those specific duties that I've
17 outlined, but that doesn't mean that she's any more
18 important than any of you other jurors, and that's because
19 the decision of a jury is the unanimous consensus opinion
20 of all 12 jurors, and so all of you and each of you will
21 have an equal say and an equal vote in what the ultimate
22 decisions will be in this case.

23 Someone simply has to be delegated those
24 responsibilities that I've just indicated, and I have
25 delegated those to the foreperson in putting her into that

Jury sworn

1 position. But all of you jurors are equally important so
2 far as the ultimate decisions in this case are concerned,
3 because, as I've stated, the verdicts have to be unanimous.
4 All of you must be in agreement.

5 Mr. Sherman and Mr. Bateman, each of you have been
6 selected as alternate jurors, and the function of an
7 alternate juror is to take the place of one of the original
8 12 jurors if during the trial one of these 12 cannot
9 continue to serve for some person.

10 And so if an original juror is called away because of
11 an emergency or an illness or some other circumstance and
12 is unable to continue to serve as a juror, then one or both
13 of you would be called upon to take that juror's place.

14 In that event you become the twelfth juror, and in
15 that event you participate throughout the trial including
16 the jury deliberations at the trial's conclusion.

17 If however when the time does come for jury
18 deliberations if the original 12 are able to perform that
19 function, then the service of the alternate jurors ends and
20 you would not be permitted to participate any further, and
21 that's because the decision of a jury is that of 12, but no
22 more than 12 are permitted to engage in the deliberation
23 process.

24 But it is important that you pay just as careful
25 attention as we ask of all of the jurors in the case

1 because it does occur from time to time for one reason or
2 another one of these 12 may be called away. In that event
3 one or both of you would be called upon to become the
4 twelfth.

5 So we do appreciate your participation as alternate
6 jurors, just as we appreciate the participation of each of
7 you jurors who have been selected for the purpose of
8 deciding the verdicts in these particular cases.

9 You may swear the panel.

10 (Whereupon, the jury was duly sworn.)

11 THE COURT: All right. As you know, you have been
12 selected to decide the verdicts in the case of the State
13 vs. Timothy wayne wilbanks.

14 As you also know, Mr. wilbanks has been accused by the
15 prosecutor by way of these indictments -- and, as I told
16 you, the indictments are the charging papers in circuit
17 court. They're not evidence of anything; they don't prove
18 anything; they don't establish anything. They simply set
19 forth the charge that has been brought against the
20 defendant when that person is brought to stand trial.

21 Now, as you also know, Mr. wilbanks has been charged
22 with a number of separate and distinct criminal offenses,
23 although they are alleged to have arisen out of one
24 particular event or a course of events which the state
25 alleges occurred back on November the 9th of 2021.

1 But they are separate indictments and you will be
2 called upon to render separate and distinct verdicts as to
3 each of the separate and distinct charges. And of course
4 your verdicts could be the same as to all, they could be
5 different as to all.

6 That of course will depend upon your determination of
7 the facts from the evidence as it relates to each of the
8 separate charges and then your application of the law to
9 those facts as you determine those facts to have been in
10 order to arrive at a decision.

11 But the charges that have been brought against the
12 defendant are the charge of armed robbery, failing to stop
13 when signaled to do so by a law enforcement officer,
14 resisting a lawful arrest and possession with intent to
15 distribute methamphetamine and possession with intent to
16 distribute Clonazepam, each of those both being scheduled
17 controlled substances.

18 Now, as to each of those charges and as to the
19 allegations set forth in each of those indictments the
20 defendant has entered a plea of not guilty.

21 As I told you earlier, that plea of not guilty places
22 upon the state the burden of proving the allegations that
23 they have made by way of each of these indictments, the
24 burden of proving each of the essential elements that make
25 up each of the crimes that are alleged in each of these

1 separate indictments; and therefore the burden is upon the
2 state to establish the defendant's guilt to the
3 satisfaction of you 12 jurors beyond a reasonable doubt
4 before any verdict of guilty could be returned as to any of
5 the separate charges.

6 Every person accused of a crime is always presumed to
7 be innocent of that charge. That presumption of innocence
8 remains with every defendant, as it does with this
9 defendant, from the time that he is placed under arrest and
10 throughout the course of the criminal process and even
11 throughout the course of the actual trial in the case.

12 That presumption of innocence is with Mr. Wilbanks
13 now, and it'll be with him even as you go back at this
14 trial's conclusion to begin with your deliberations in this
15 case.

16 That presumption of innocence will be with him there,
17 and it'll remain with him always unless you 12 jurors
18 determine that he's no longer entitled to that presumption
19 of innocence as it relates to a particular charge.

20 In other words, when you go back to deliberate and
21 after you consider all the evidence that has been received
22 in the case, and from that evidence you have been able to
23 determine the material facts that relate to a particular
24 indictment and a charge contained therein and after you
25 decide those facts you apply the law that I will have

1 provided to you, if you 12 jurors unanimously determine
2 beyond a reasonable doubt that the defendant has been
3 proven guilty of a particular charge, then he's no longer
4 entitled to the presumption of innocence as it relates to
5 that particular charge. But it is only if, unless and
6 until you are satisfied of his guilt beyond a reasonable
7 doubt that the presumption of innocence would no longer be
8 applicable.

9 Now, the way the trial will proceed is that in a
10 moment the lawyers are going to address you in what are
11 called opening statements.

12 There are two occasions in the trial of a case where
13 lawyers are permitted to address the jury, and that is at
14 the beginning of the trial before any evidence has been
15 introduced, then again at the conclusion of the trial after
16 all of the evidence has been received.

17 But please keep in mind, as I've just indicated, the
18 lawyers' statements are not evidence. You're not to rely
19 upon a lawyer's statement as to the establishment of any
20 fact necessary for your decision.

21 The evidence comes in between the opening and closing
22 statements of the lawyers. And the reason you can't
23 consider the lawyers' statements as evidence is because the
24 lawyers don't know anything about this case of their own
25 personal knowledge or perception like witnesses will be

1 testifying to when they take the witness stand to provide
2 you with information.

3 The lawyers won't take the witness stand. They won't
4 be placed under oath. They won't be subjected to direct
5 and cross-examination like each witness will be. And so
6 what the lawyers say in their statements is not to be
7 construed by you as any evidence upon which you will base
8 your decision. But you should listen to what the lawyers
9 have to say because those statements do serve a purpose.

10 The opening statements serve to provide you with a
11 basic understanding as to what this case is about from both
12 the perspective of the state, as well as the defense, so
13 that you'll have some context in which to place the
14 evidence that we will be receiving shortly thereafter.

15 The closing statements occur after all of the evidence
16 has been received. And, again, while those statements are
17 not evidence, that does afford the lawyers an opportunity
18 to discuss with you the evidence that you have seen and
19 heard during the trial of this case. And through that
20 discussion each lawyer will have an opportunity to try to
21 persuade you or to convince you that the evidence in the
22 case does or does not support a particular decision.

23 And, as I say, it's in between those statements that
24 we actually receive the evidence upon which you will base
25 your decision and your determination of fact.

1 The state has the burden of proof, as I've told you,
2 and therefore the state will go forward first in its
3 presentation of evidence, because they must prove the
4 defendant to be guilty beyond a reasonable doubt.

5 After the state has concluded with their presentation
6 of evidence a defendant in a criminal case has an
7 opportunity to testify or to call additional witnesses or
8 to introduce additional evidence.

9 But the burden is never upon a person accused of a
10 crime to prove that they are not guilty or to prove that
11 they are innocent because in some cases that might not be
12 possible.

13 And therefore in a criminal trial it might be that the
14 defendant does not take the witness stand and testify, does
15 not call any additional witnesses, does not introduce any
16 additional evidence.

17 Should that fact occur, that's not something that the
18 jury may hold against the defendant in the slightest
19 degree, because, as I've stated, the burden is not upon a
20 defendant to prove that he is not guilty or to prove that
21 he is innocent.

22 The burden is on the state to prove that he is guilty
23 before any such verdict could be returned. But every
24 person accused of a crime is always afforded the
25 opportunity to testify or to call witnesses or to introduce

1 evidence should he or she wish to do so.

2 So after the case has been presented and you've heard
3 the final summations of the lawyers, I will then instruct
4 you on the law as it relates to the criminal law generally
5 and as it relates to these particular charges specifically.
6 And then you'll be asked to go back and to begin with your
7 deliberations.

8 Through that process and through the exercise of good
9 judgment and common sense conscientiously applied to the
10 testimony and evidence in the case you're going to be
11 called upon to determine the facts as they relate to the
12 individual charges. Upon deciding the facts you'll apply
13 the law as it relates to that charge that I'll provide you,
14 and you will determine whether or not the defendant has
15 been proven guilty of any of these charges beyond a
16 reasonable doubt.

17 And if he has, then your verdict would be guilty as to
18 that charge. And if he has not, then your verdict would be
19 not guilty as to that charge.

20 So all that we're going to ask you to do is to pay
21 careful attention throughout the course of the trial,
22 because there are going to be several witnesses called.
23 All of those witnesses have information to share, but in
24 your decision as to what the facts are you get to determine
25 the credibility and the believability of a witness.

Opening statements

1 And so you can believe everything that a witness
2 testified to. You may choose to believe none of it. You
3 may believe some portion of a witness' testimony and reject
4 some other portion of that same witness' testimony.

5 In a given case you could believe one witness as
6 opposed to several, or several as opposed to one. But in
7 order for you to be in a proper position when you go back
8 to deliberate to be able to fairly evaluate and assess the
9 credibility of a witness you've got to watch the witness
10 while they testify so that when you do go back you'll be
11 able evaluate that witness' testimony in light of not just
12 that witness' own testimony but in light of all of the
13 testimony and all of the other evidence received during the
14 course of the trial.

15 And of course it's also important that you keep an
16 open mind throughout the course of the trial, and that
17 means that you are not to begin making up your minds or
18 formulating your opinions as to what you think the ultimate
19 decisions in this case ought to be until after all of the
20 evidence has been received, until you've heard the final
21 summations of the lawyers, until I have instructed you on
22 the law and until you've then been asked to go back to
23 begin with your deliberations.

24 That is the process that has been designed over the
25 last 240-some-odd years to ensure that you can arrive at a

Opening statements

1 fair and impartial decision not just in these cases but in
2 any case you might be called upon to participate in.

3 So I do want to thank you in advance for your
4 participation, as well as for your careful attention. I
5 would ask that you now please give your attention to the
6 lawyers as they give you their opening statements.

7 Mr. Barnette.

8 MR. BARNETTE: May it please the Court, Your Honor.

9 Madam forelady, ladies and gentlemen of the jury, I
10 want to take you back to November 9th, 2021.

11 Ms. Patel that morning got to work. She went to the
12 Scotsman Four up on the Asheville Highway. You know where
13 the McDonald's is there on Hearon Circle.

14 If you continue, you go up the road, up Asheville
15 Highway, the store that she works at that day is right
16 there on the right, probably about a half mile, maybe a
17 mile, up the road.

18 She gets there at 6:30 in the morning. She opens her
19 store.

20 A little bit after 7:00 o'clock Timothy Wilbanks goes
21 in the store. He has a blue mask on, a black hat, a green
22 shirt. He's even got glasses right here. He has a sleeve
23 on his leg with shorts.

24 He comes in and asks Ms. Patel where is the bathroom.
25 She indicates where it's at. He comes out and pulls a gun

Opening statements

1 right on her, demands all the money.

2 There's video cams of the store. You're going to see
3 those. She complies and gives the money to him.

4 He said I want your jewelry. She said, well, it's not
5 real. And she points -- he points a gun right at her.

6 Once he gets all of the money and everything, he tells
7 her don't call the police or I will shoot you more than
8 once.

9 You can tell her reaction to all of this on the video
10 when you see it. She is so scared to call the police she
11 calls her mother first. Her brother ends up calling the
12 police.

13 The sheriff's department's contacted. They get a
14 description of the vehicle, a red Durango. Officers --
15 Officer Knisley initially meets up with him. He runs away
16 from Officer Knisley.

17 Sergeant Mark Miller runs into him next. He pulls up
18 to him. He'll describe the interaction at that point and
19 tell you what happened.

20 He runs from him when he tries to stop him. Both
21 times the blue lights are on.

22 Nick Harakas joins in the chase. He has to take over
23 because Mark Miller is in an older vehicle, and he'll tell
24 you about that. He can't keep up with him.

25 where this happens is -- you know where the Cathedral

opening statements

1 Church is, or I believe it's the Pentecostal Church down
2 there on, I guess, it's I-85 right there. There's an Exit
3 1 there.

4 He comes off the ramp. He loses control. Mr.
5 Wilbanks is in the red Durango. It rolls over and stops.
6 You'll see the wheels busted. You'll see the whole mess on
7 the interstate there.

8 The one thing I will tell you, that both officers have
9 body-cam videos. They don't have in-car videos, so you
10 can't actually see the chase.

11 They get out. This is a felony stop. This man has a
12 gun. He's already robbed a lady from that standpoint.
13 They order him to comply, to get down on the ground. He
14 does not get down on the ground. They do a felony stop.
15 They take him down.

16 He is arrested. You'll see how he's dressed. You'll
17 the items that's in his car including the gun. There's red
18 and black gloves that he has on, the blue mask, the money
19 that he's taken in there.

20 The gun was in the car, but there's no way the
21 officers could know where it was. He will not get down.
22 They did not know where the gun was. So, obviously,
23 they've got to protect themselves.

24 They did a search warrant on the car. The officer
25 does an inventory. You'll hear from them. They find the

Mayuriben Patel
Direct examination by Mr. Barnette

1 drugs in the car there. It's in like a black bag. You'll
2 see pictures of this. They opened it up. It's meth plus
3 clonazepam. It's in a black container.

4 He is arrested for the armed robbery and failure to
5 stop. He actually did it twice from there, and you'll see
6 the way his car was after the wreck and you'll see
7 everything. This is Business 85 that morning. No cars was
8 hit except his. Well, his car wasn't hit. He lost control
9 with the damage to his own car.

10 He's also charged with resisting arrest. The officers
11 asked him -- he did not comply -- to get down on the ground
12 like they asked him to do. And also he's charged with both
13 sets of drugs from there.

14 That'll be the testimony here, ladies and gentlemen,
15 here. The one thing I ask you to do is bring your common
16 sense. You've got your everyday lives.

17 This will be a quick trial from the standpoint, and
18 you'll see the evidence. We'll have video for you. We'll
19 have pictures. You'll see it. Then it'll come to the end
20 of the trial.

21 What I'm going to ask you to do is find guilty
22 verdicts on all counts against this man for what he did on
23 November 9th of 2021. Thank you very much.

24 Thank you, Your Honor.

25 MR. SNYDER: Good morning.

Mayuriben Patel
Direct examination by Mr. Barnette

1 I'll try to be as brief as Mr. Barnette just was
2 because I know you don't want to hear from us. You'll hear
3 from the witnesses and evidence in this case.

4 My name is Chad Snyder. I represent Timothy Wilbanks
5 who you've heard is charged with some serious offenses here
6 in Spartanburg County. You have a lot of people in the
7 courtroom that are interested in the outcome of this case.

8 I just hope that you all pay close attention. You'll
9 hear lots of conflicting evidence and you'll see some
10 pretty graphic video. And then at the end of all of that I
11 know you'll have many questions about what happened that
12 day. All of those questions raise a reasonable doubt. If
13 you have a reasonable doubt, you must find Mr. Wilbanks not
14 guilty. Thank you.

15 THE COURT: Mr. Barnette.

16 MR. BARNETTE: May it please the Court. I would like
17 to call Ms. Patel to the stand please.

18 MAYURIBEN PATEL, having been
19 first duly sworn, testified as follows:

20 THE COURT: You can adjust that microphone as you need
21 to. Just be sure that it's picking up your voice so the
22 jury can hear what you say.

23 THE WITNESS: Okay.

24 DIRECT EXAMINATION BY MR. BARNETTE

25 Q Ms. Patel, I know you're soft spoken. I'm going to

Mayuriben Patel
Direct examination by Mr. Barnette

1 have to ask you to speak up. I know that's not your
2 nature, but speak up so this gentleman in the back row can
3 hear you back here. Okay.

4 A Okay.

5 Q If you would, give me your full name, please.

6 A My full name is Mayuriben Patel. Mayuriben
7 Kalepeshkumar Patel.

8 Q Okay. Keep your voice up. I know it's going to be
9 hard for them to hear you.

10 A Okay.

11 Q Ms. Patel, what kind of work do you do, ma'am?

12 A I work like convenience store as a cashier.

13 Q And back on November 9th of 2021, where was you
14 working at, ma'am?

15 A I work at the Scotsman Four, Asheville Highway, the
16 convenience store.

17 Q And that's in Spartanburg County, right?

18 A Yes. Spartanburg county.

19 Q Do you know where Hearon Circle is?

20 A Yes.

21 Q It's right above there on Asheville Highway and on the
22 right.

23 A Yeah.

24 Q And what time did -- what time did you get there that
25 morning for work?

Mayuriben Patel
Direct examination by Mr. Barnette

1 A I opened at 6:30, morning.

2 Q Okay. And when you opened up, you opened the store
3 up, is there also video? There are cameras there also?

4 A Yes.

5 Q And that morning, about a little bit after
6 7:00 o'clock that morning, did a gentleman come into --
7 often into your store?

8 A Yes. He's coming at the store 7:00 o'clock, and at
9 7:05 something. He come in, entered the store, and he
10 asked me for can I use your restroom, please. I say sorry,
11 it's not work.

12 And he just removed the gun under the t-shirts, and he
13 told me to open the drawer and give me money. So I'm
14 scared. I opened the drawer and I give him money.

15 Q After you gave him the money did he ask for anything
16 else?

17 A Yeah. He asked for my jewelry, like my necklace, and
18 see. And I say it's not real. So he say okay. And he
19 asked me for also my gun. He say give me your weapon. But
20 I don't have any weapon at my store.

21 Q And what else did he tell you, ma'am?

22 A He's asked me for the also secrets. He wants secrets.
23 I say, okay, which one you want, because I'm scared. So I
24 just give him, and he say okay, though I don't want, I need
25 money and I'm done so I'm going but don't call the police,

Mayuriben Patel
Direct examination by Mr. Barnette

1 otherwise, I have a gun, I shoot you. So I'm really
2 scared.

3 Q How many times did he tell you that, ma'am?

4 A Like three or four times.

5 Q And did he leave after that?

6 A Yeah, he left after that.

7 Q And who did you call after he left?

8 A He left. I called my husband first.

9 Q Why did you call them instead of the police?

10 A Because he told me you don't call, so I don't call the
11 police. I called first my husband, and my husband have to
12 call the police.

13 Q Let me show you this exhibit, ma'am. Let me show you
14 State's Exhibit No. 3. Have you seen the videos from those
15 cameras, ma'am?

16 A Yes. I seen because I have a camera in my store. My
17 brother shows me that we use.

18 Q Okay. And is these the videos that was taken that
19 morning? Does these appear to be the same videos?

20 A Yes.

21 MR. BARNETTE: Your Honor, I'd like to move State's
22 Exhibit 3 into evidence at this time.

23 MR. SNYDER: No objection.

24 THE COURT: It's admitted.

25 (Video marked State's Exhibit No. 3.)

Mayuriben Patel
Direct examination by Mr. Barnette

1 MR. BARNETTE: Permission to publish, Your Honor.

2 THE COURT: You may.

3 (Whereupon, State's Exhibit No. 3 was played for the
4 jury.)

5 Q And there was three different cameras, is that right,
6 inside the store?

7 A Yes, yeah.

8 Q Ms. Patel, can you see which video this is?

9 A This the front video.

10 Q Is this where the front door is, where he came in?

11 A Yeah.

12 Q And is the date and time up at the top of the video in
13 the right-hand corner?

14 A Yeah.

15 Q what's he telling you, ma'am?

16 A He say, "I got money. I'm leaving now."

17 Q what are you doing right now, Ms. Patel?

18 A I just seen the cigarettes.

19 Q what's he asking there, ma'am?

20 A For -- asking for restroom, can I use your restroom.

21 I say no, it's not work. He just wanted the gun.

22 Q what's he doing now, ma'am?

23 A He say you open the drawer and give me money.

24 Q what's he doing there, ma'am?

25 A He say give me your gun. I say I don't have any gun

Mayuriben Patel
Direct examination by Mr. Barnette

1 then. I just request him not shoot me. He asked me for
2 cigarette.

3 Q what's he telling you now, ma'am?

4 A He say I need the money so that's why I come here and
5 I have none now, I'm just leaving but don't call the
6 police, like that.

7 Q If you called the police, what was he going to do to
8 you?

9 A Sorry?

10 MR. BARNETTE: May I approach the witness, Your Honor?

11 Q Ms. Patel, I'd like to show you State's Exhibits 14
12 through 19. Let you look at them one at a time there.

13 (Pause.)

14 A There he is.

15 Q Do those pictures fairly represent what was on the
16 video?

17 A Yeah.

18 MR. BARNETTE: Your Honor, I'd like to move State's
19 Exhibits 14 and 19 into evidence at this time.

20 MR. SNYDER: Without objection.

21 THE COURT: They're admitted.

22 (Photographs marked State's Exhibits 14 through 19.)

23 MR. BARNETTE: May I publish them to the jury, Your
24 Honor?

25 THE COURT: You may.

Mayuriben Patel
Direct examination by Mr. Barnette

1 Q Okay. Showing you State's Exhibit No. 14. Is this
2 the man that walked into your store that morning?

3 A Yes.

4 Q And he's wearing a blue mask.

5 A Yes.

6 Q Is that right?

7 A Blue mask, black cap, green clothes. He has on some
8 glasses there and greenish-blue T-shirts.

9 Q Showing you State's Exhibit No. 15. Is this another
10 picture from the video, ma'am?

11 A Yes.

12 Q And at this time is he asking you for the money?

13 A Yeah, no. He just got the money. He asked me for
14 jewelry.

15 Q Okay. Did -- did he have like red and black gloves on
16 too?

17 A Yeah.

18 Q Showing you State's Exhibit 16.

19 A Yeah.

20 Q Is that another picture from the video, ma'am?

21 A Yes.

22 Q State's Exhibit 17. Is this where he's actually got
23 the money?

24 A Yes.

25 Q Now, he's already pointed the gun at you one time, is

Mayuriben Patel
Cross-examination by Mr. Snyder

1 that right, before you gave him the money?

2 A Yeah.

3 Q Is that right? State's Exhibit 18. Did he point the
4 gun back at you again?

5 A Yeah. He asked me for the jewelry or gun, if you
6 have. I say I don't have any weapon in my store.

7 Q Did he also ask you for your jewelry also --

8 A Yeah.

9 Q -- from there? And also showing you State's Exhibit
10 No. 19. Is this another picture of that, ma'am?

11 A Yes.

12 Q Does he also have glasses --

13 A Yeah.

14 Q -- right there also?

15 A Yes.

16 Q He has a black -- like you said, a black cap with
17 something written on it, is that right?

18 A Yes.

19 Q And he has red and black gloves.

20 A Yeah.

21 Q He has the bluish or greenish type sweatshirt on.

22 A Yes.

23 Q He does have the blue mask on.

24 A Yes.

25 Q And how much money did he get, ma'am?

Mayuriben Patel
Redirect examination by Mr. Barnette

1 A I think he got approximately \$300.

2 Q Around \$300?

3 A Yeah.

4 Q And showing you State's Exhibit No. 14. He's also --
5 does he have like a leg sleeve on his leg?

6 A Yes.

7 MR. BARNETTE: One moment, Your Honor, please.

8 (Pause.)

9 Q If you would, ma'am, please, answer any questions Mr.
10 Snyder will have for you. Thank you.

11 CROSS-EXAMINATION

12 BY MR. SNYDER

13 Q Good morning, Ms. Patel.

14 A Good morning.

15 Q I'll be brief.

16 The suspect in the video was completely covered,
17 correct?

18 A Yes.

19 Q You couldn't see his eyes.

20 A No.

21 Q His hair?

22 A Nothing. He's completely.

23 Q You couldn't even tell what race he was, correct?

24 A Race?

25 Q You couldn't tell if he was a black guy or a white

Marcus Miller
Direct examination by Mr. Barnette

1 guy.

2 A No. I seen the white guy. Yeah.

3 Q Okay. But you were very scared when this was all
4 going on.

5 A Yes.

6 Q You told the officers that that gentleman ran on foot,
7 correct?

8 A Ran on foot?

9 Q He left the store. He walked away.

10 A Oh, yeah. I seen just walk around the back side. I
11 don't see him car.

12 Q Right. You just saw him leave on foot.

13 A Yes.

14 Q And there are no outside videos to the store?

15 A No.

16 Q Just to summarize. Ms. Patel, this happened at a
17 moment where you were very scared -- couldn't -- correct?

18 A Yes. I'm very scared.

19 Q And you couldn't see the suspect.

20 A No.

21 Q Thank you.

22 MR. BARNETTE: Just one question on redirect.

23 REDIRECT EXAMINATION

24 BY MR. BARNETTE

25 Q But he was white, is that right?

Marcus Miller
Direct examination by Mr. Barnette

1 A Yeah.

2 Q If you would, please step down, ma'am, unless they
3 have any other questions for you.

4 A Okay.

5 Q Come on down.

6 MR. BARNETTE: Your Honor, we ask the witness be
7 excused.

8 MR. SNYDER: No objection.

9 THE COURT: She may be. Thank you.

10 (Whereupon, the witness was excused.)

11 MR. BARNETTE: Your Honor, I'd like to call Mark
12 Miller to the stand, please.

13 MARCUS MILLER, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE

16 Q If you would, sir, please state your full name for the
17 record.

18 A My name's Marcus Miller.

19 Q And, sir, where do you work at?

20 A Right now I am corporate security manager at Magna
21 Seating.

22 Q Back on November 9th of 2021, where did you work at,
23 sir?

24 A I worked for the Spartanburg County Sheriff's Office
25 before I retired.

Marcus Miller
Direct examination by Mr. Barnette

1 Q Okay. And how long did you work for law enforcement,
2 sir, for the sheriff's department?

3 A For the Spartanburg County Sheriff's Office was my
4 entire career. It was 26 years and 11 months.

5 Q And what was your rank at that time, sir?

6 A During this time I was a master deputy.

7 Q Okay. If you would, tell the jury. Did y'all receive
8 a call about this armed robbery?

9 A Yes, yes, sir, we did.

10 Q And can you tell the jury what -- what patrol did and
11 what -- how did y'all react to it?

12 A Being the canine handler, I was pretty close to the
13 armed robbery site.

14 Q As a matter of fact, the sheriff's department is right
15 down the street from there, right?

16 A Yes, yeah. I believe I may have been there, or I was
17 very close to it. So I was there fairly fast. It's just
18 right around the corner, maybe it's less than a mile.

19 Because it was an armed robbery, it came over the
20 person had a gun. The other canine handler -- I run the
21 bloodhound and she runs a -- it's a mixed Belgian Shepherd,
22 one of our patrol dogs. So I knew we would probably run a
23 track.

24 So I went to the store to wait for the other canine to
25 arrive and see if I could help out in any way.

Marcus Miller
Direct examination by Mr. Barnette

1 Q Once you arrived there, did y'all receive information
2 about the suspect?

3 A Yeah. It started coming in, and we were just trying
4 to get the -- the video together so we could view it and
5 get a better description.

6 Q Okay. And did you get a chance to review that video,
7 or did other officers get a chance to review it too?

8 A I believe Sergeant Letterman came in at the time. We
9 were starting to get the video pulled up and view it at the
10 time.

11 As we were getting into more details about the call
12 coming in as far as vehicle, possible vehicle, what the
13 person was wearing and just try to get as much -- it's a
14 very fluid situation when it's going on. You're just
15 trying to get as much information over the radio as you
16 can, because, if I'm not mistaken, it was a Sunday morning.
17 It was very slow. It was very early in our shift. We
18 start our shift at 7:00. So we had a lot of units in that
19 area searching for the suspect during this time.

20 Q And did one of the units find the suspect?

21 A Sergeant Knisley, I believe, called out with a vehicle
22 that matched one of the descriptions that was put out over
23 the radio. As I said, I'm watching the video waiting for
24 the dog to come, listening to it. And then as it -- as
25 he's calling out with it, you know, you just kinda -- you

Marcus Miller
Direct examination by Mr. Barnette

1 have your ear to it just in case, and at some point he does
2 get into a vehicle chase with a red Durango that he
3 believes to be the suspect in this armed robbery.

4 Q And he turned on his blue lights and everything?

5 A Yeah. You could hear. I mean, you could hear the
6 siren over the radio, and I obviously could hear that a
7 pursuit had been initiated.

8 So at that point I stopped what I was doing. And
9 where I was on Asheville Highway is very close to Valley
10 Falls Road. I tried to get near where the chase was so I
11 could assist.

12 At that time he was the only unit. Per our policy we
13 usually can have three units in a chase. And if you're not
14 one of those three units you want to be parallel to it or
15 close to it. And being one of the canine handlers if this
16 person was to run on foot at any point, that's where I
17 would become involved as well to try to apprehend the
18 person that went fleeing on foot if needed.

19 So, yeah, I was running toward the -- the pursuit when
20 Sergeant Knisley lost the vehicle and called off his part
21 of the pursuit. I believe it was over near International
22 Drive by the U-Haul place which is right by I-26.

23 Q What -- what happened after that?

24 A I pulled into the department of motor vehicles, which
25 you guys might be familiar with. It's right there on

Marcus Miller
Direct examination by Mr. Barnette

1 Fairforest Road. I'm not sure if you guys are from
2 Spartanburg. It's a very busy D.M.V.

3 There happened to be a highway patrolman in there, and
4 I pulled up next to him. We usually pull in, like if I
5 pulled in he'd pull up next to me. And I was giving him a
6 description of what was going on because they have a
7 different frequency than we have. So I was telling him
8 what the sergeant had just been chasing.

9 And at that point we pulled out. He went to the right
10 back towards Asheville Highway and I went to the left back
11 towards Business 85 and International Drive. And that's
12 when I came across a vehicle that matched that description.

13 Q You did come across a vehicle that matched the vehicle
14 description on the --

15 A Yeah. At International Drive there's a light, right
16 there at Fairforest. And I believe this was the second or
17 third car in. I think it was the third car.

18 And I knew this person had a weapon. And the way it
19 comes out, I would have to kinda angle in. So what I
20 wanted to do, fearing a possible shootout, plus, you know,
21 you have other people right there, so as -- as a deputy you
22 have to consider that if you're going to draw your weapon
23 what is behind it. You know, you do not want to hit
24 somebody who's innocent. So you have to make sure that
25 everything is safe for the public and in a very fast, very

Marcus Miller
Direct examination by Mr. Barnette

1 fluid situation.

2 So what I did was I pulled my vehicle. I initiated my
3 lights. I did not have my siren on at this time. And I
4 angled my vehicle so my engine block was between me and
5 this red Durango that matched the description of the
6 suspect vehicle that Sergeant Knisley had chased.

7 I got into the apex of the door when I opened it. And
8 as I got outta the car and was beginning to draw my weapon,
9 I could see that the person in the red Durango was getting
10 extremely nervous looking at me. And then he went around
11 the two vehicles, through the red light and took a right
12 onto Fairforest and was going.

13 So I had an older canine Durango at that time before I
14 got issued another vehicle. A canine vehicle has to run as
15 long as the car is running because we have the dog in the
16 back. So they definitely get a lot of wear and tear on
17 them.

18 I initiated my siren. My lights were still on. I
19 pursued this vehicle. Because I have an older vehicle, it
20 would bog down. It wasn't very fast.

21 When I did stop and got in the apex of my vehicle to
22 confront the subject in the red Durango, I of course held
23 the channel. I called for other units to come to me, and
24 they were coming priority as fast as they could to me.

25 So when I initiated the pursuit of this vehicle I was

Marcus Miller
Direct examination by Mr. Barnette

1 the first vehicle in it, and then Deputy Harakas and Deputy
2 Powell soon fell in after me.

3 And because my vehicle, I knew, was not going to be
4 able to keep up with this Durango and I was afraid we were
5 going to lose an armed robber who was armed and definitely
6 a danger to the public, I immediately pull over to the
7 right, and Deputy Harakas and Deputy Powell blew past me,
8 and I became the third vehicle in the pursuit at this
9 point. And that's -- and then so we just pursued a little
10 longer onto Fairforest, onto North Blackstock.

11 And then by the time he hit the interstate the vehicle
12 had wrecked. So because I was the third vehicle I saw the
13 very tail end where the vehicle had stopped. I didn't
14 necessarily see the vehicle flip or spin or whatever. I
15 see it came to a halt, and that's when we started ordering
16 the subject outta the vehicle.

17 Q Okay. Was he complying to get down on the ground at
18 that point?

19 A He was not.

20 Q And was he taken down --

21 A He was.

22 Q -- from there? Did y'all ever -- you didn't know
23 where the gun was at.

24 A No. Well, I mean, we were told he was armed. We had
25 to believe he was armed because the vehicle wrecked and

Marcus Miller
Direct examination by Mr. Barnette

1 miraculously didn't hit any vehicle -- fortunately, it was
2 a Sunday morning on busy Business 85 crossing all those
3 lanes and going into the next one after the cable barrier.
4 Again, we didn't know if this gentleman was armed.

5 You have all these vehicles stopping because they had
6 to because of the wreck. They see us, the blue lights and
7 everything else. So we had to obviously consider the
8 public and didn't know.

9 So I did draw my weapon, was giving commands for him
10 to get on the ground. He was not complying. And Deputy
11 Harakas was -- made contact with him, and I assisted in
12 getting one of his arms up from where he was trying to tuck
13 it and helped in the handcuffing.

14 Q When you say tucked, you didn't know where the gun
15 was.

16 A I did not. I didn't know if it was in his waistband
17 or where it was. So, obviously, the last thing we want is
18 to have him get ahold of that. So we have all of these
19 cars stopped. If he let out a shot anywhere, it could have
20 gone anywhere. So we have to protect the public. We have
21 to effect the arrest.

22 Q And did y'all do that?

23 A Yes, sir. We did.

24 Q And did -- he still didn't comply with you. Did y'all
25 have to tase him at some point?

Marcus Miller
Direct examination by Mr. Barnette

1 A At -- at this point I wasn't -- Deputy Harakas kinda
2 had control of the suspect, so I was trying to assist how I
3 could as far as how he tased him or why he tased him.

4 I mean, it was -- he was not complying. So you have
5 to elevate it to the next step to try to get the situation
6 under control as quickly and safely as possible for
7 everyone.

8 Q And from there, you didn't have an in-car video at
9 that time, did you?

10 A No, sir. I had my body cam, and I turned it on as
11 soon as it was safe for me to do so. And, unfortunately,
12 this was our older style body camera. And during all of my
13 tracks and any time you got into a confrontation, the
14 switch was not very well designed on the first, this issue
15 camera. So it did shut off when -- at some point during
16 the contact. But I think there should be a good bit of it
17 that's still on it.

18 Q Yes, sir.

19 MR. BARNETTE: May I approach the witness, Your Honor?

20 THE COURT: You may.

21 Q Let me show you what's been marked as State's Exhibit
22 No. 7. Is this a copy of the body-cam video you had that
23 day, sir?

24 A It was.

25 MR. BARNETTE: Your Honor, I'd like to introduce it,

Marcus Miller
Direct examination by Mr. Barnette

1 State's Exhibit 7, at this time.

2 MR. SNYDER: No objection.

3 THE COURT: It's admitted.

4 (B.W.C. from Sergeant Mark Miller marked State's
5 Exhibit No. 7.)

6 MR. BARNETTE: Permission to publish, Your Honor.

7 THE COURT: You may.

8 (Whereupon, State's Exhibit 7 was played for the
9 jury.)

10 Q In the first couple of minutes -- at that time was
11 your body-cam video off, at that time, sir?

12 A Yeah. When we had hands on him.

13 Q From there.

14 Let me show you a couple of more pictures here. Let
15 me show you State's Exhibits 20 and 21. Are these pictures
16 from the video, your body-cam video, sir?

17 A They are.

18 MR. BARNETTE: Your Honor, I'd like to introduce
19 State's Exhibits 20 and 21 into evidence at this time.

20 MR. SNYDER: No objection.

21 THE COURT: They're admitted.

22 (Photographs marked State's Exhibits Nos. 20 and 21.)

23 MR. BARNETTE: Permission to publish, Your Honor.

24 THE COURT: You may.

25 Q Showing you State's Exhibit No. 20 at this time, sir.

Marcus Miller
Cross-examination by Mr. Snyder

1 was this a picture from the video?

2 A It was.

3 Q Did it appear that the defendant was complying with
4 y'all at that time?

5 A He was not.

6 Q was he also wearing a black ball cap at that time?

7 A Yes, sir. I believe he was. This was very, very
8 fast. It's everything you can see there. He's definitely
9 got the cap on, the light sleeve, the teal type shirt.

10 Q And showing you State's Exhibit 20. And of course
11 that's a red Durango, is that right, sir?

12 A It is. It was the one that was given a description
13 that Sergeant Knisley had chased just a few minutes prior
14 before I got involved.

15 Q Yes, sir. State's Exhibit 21. Is that just another
16 picture from the video itself?

17 A It is.

18 Q And the store and the chase and everything occurred in
19 Spartanburg County, is that right?

20 A It did. All of it was in Spartanburg county.

21 Q At the time when y'all detained him and everything,
22 was he later taken to the hospital, sir?

23 A I believe they transported him. Like I said, I got
24 back and did my paperwork. I never went into his vehicle
25 or had anything to do with the transport of him.

Marcus Miller
Cross-examination by Mr. Snyder

1 Q And obviously he had a wreck.

2 A He did. So, I mean, usually it's protocol. Like I
3 said, I was at the very tail end of it, so I wasn't even
4 aware of the severity of the wreck because the vehicle was
5 upright. So I didn't know at that time that it had -- had
6 flipped over multiple times.

7 Q And afterwards he was taken into custody and
8 everything, taken to the hospital. And was he booked that
9 day as far as you know?

10 A Yes. As far as I know he was definitely transported
11 and booked that day for sure.

12 MR. BARNETTE: One moment, Your Honor, please.

13 Q Please answer any questions the defendant may for you,
14 sir.

15 CROSS-EXAMINATION

16 BY MR. SNYDER

17 Q Briefly. Did you say you were driving a Dodge Durango
18 at the time?

19 A No, sir. I was not. I was driving a Tahoe.

20 Q Okay.

21 A The other deputy was issued a newer Durango. I had a
22 Tahoe.

23 Q Okay.

24 A I've never driven a Durango.

25 Q Okay. But the car you were driving couldn't keep up

Marcus Miller
Cross-examination by Mr. Snyder

1 with the car the suspect was driving.

2 A Well, it did the best it could. Like I said, it was
3 an older -- I had it brand new, but it was older, and due
4 to the wear and tear of always having to idle.

5 Like I said, never being able to shut down because of
6 the dog in there, summer or winter. It doesn't matter. I
7 can't turn off that car for basically a 13-hour shift -- 12
8 hours, but we always go over. Therefore it would bog down,
9 and that's why -- I still have visual of the vehicle when
10 the other vehicles passed me, but I knew that they would
11 have a better chance of keeping up with the vehicle, and I
12 didn't want to risk losing it.

13 Q And you -- you didn't initiate this pursuit.

14 A The -- the second time what had happened was I pulled
15 up and I got in the edge of block. This person who matched
16 the description of the vehicle took off on their own.

17 I mean, I got out in the apex of the door. I had my
18 lights on. And all of the other cars parked there, nobody
19 took off but the red Durango and definitely blew through
20 the red light to try to get away. And that's when I,
21 obviously, got behind it, cars blowing behind these two
22 cars that matches an armed robbery suspect. It's blowing
23 through a red light right in front of me. So that's why I
24 initiated the pursuit at that point.

25 Q Right. But you didn't -- you didn't follow the

Marcus Miller
Cross-examination by Mr. Snyder

1 suspect vehicle.

2 A I did not. What happened was when Sergeant Knisley
3 lost him on International Drive, it was in that vicinity.
4 I recognized the vehicle as matching that description, and
5 that's why I pulled in the apex -- got in the apex of the
6 door, stopped my vehicle.

7 I didn't get behind it to try to pursue it. I figured
8 it was, and I wanted to get into a tactical position in
9 case there was a shootout.

10 This person was said to be armed. So once that
11 person, that vehicle, took off from me, that's when I
12 initiated the pursuit.

13 Q And we've seen the video and we've seen the still
14 shots from that video. You're pointing your firearm at the
15 suspect.

16 A Yeah. At the point as he was getting out, I was.

17 Q Right. And you're screaming profanities at the
18 suspect.

19 A I was, because, like I said, your adrenaline is going.
20 You think this person is armed. You need to get your point
21 across. You need to make sure that this person understands
22 that you are serious that you are going to effect an arrest
23 and protect the public.

24 Q Now, it appears from that video that the suspect's
25 hands were up.

Marcus Miller
Redirect examination by Mr. Barnette

1 A The person did not comply and get on the ground.

2 Q Okay. That's when he was --

3 A Like I said, this is -- this is very quick. As you
4 can see by the video, this is just a matter of a few
5 seconds here.

6 Q Was the suspect -- the suspect was handcuffed before
7 he was tased, correct?

8 A I'm not sure of that. Like I said, I was trying to
9 get this person's arm behind their back. I'm actually on
10 top. I could not tell exactly at what point the tasing
11 happened.

12 Q Is it customary for your body-worn camera to cut off
13 half way through assaulting a suspect?

14 A I'm not sure who was assaulting a suspect. I was
15 effecting an arrest. But as far as the body camera worn,
16 I've had that issued camera before I got my new one ditch
17 if off multiple times during tracks, just hitting branches
18 and effecting arrests, yes. It's a flaw in that camera.

19 Q And between the incident date and now the sheriff's
20 office had provided you with a faster car.

21 A Yes. After that point they -- they did issue me an
22 Explorer. That was my last car before I did retire. And
23 they did issue me a new body camera as well.

24 Q Congratulations on your retirement.

25 A Thank you, sir.

Nicholas Harakas
Direct examination by Mr. Barnette

1 MR. SNYDER: I have no more questions.

2 MR. BARNETTE: Just a couple on redirect, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. BARNETTE

5 Q Obviously, he resisted arrest. He didn't comply with
6 y'all's commands.

7 A He did not.

8 Q And do you see the individual that day that y'all had
9 to take down that day?

10 A I did. The person that was arrested during -- after
11 that car was chased, yes.

12 Q Do you see him in the courtroom here today?

13 A Yes.

14 Q And can you describe what he's wearing, sir?

15 A He's got on the blue shirt, the grayish tie, dark
16 slacks.

17 MR. BARNETTE: Your Honor, I'd ask that the record
18 show that he's identified the defendant in this case.

19 THE COURT: It shall.

20 BY MR. BARNETTE

21 Q If he'd went down on the ground would y'all have done
22 anything other than handcuff him, if he'd complied with
23 y'all's commands?

24 A No. If he would have got straight on the ground, he
25 would have definitely been cuffed and taken in.

Nicholas Harakas
Direct examination by Mr. Barnette

1 Q Obviously, you didn't know where the weapon was.

2 A We did not. We had no idea where that weapon was at
3 the time. We assumed it was -- you have to assume it's on
4 the person.

5 Q Thank you, sir. Please answer any questions the
6 defense may have, please.

7 MR. SNYDER: No more questions.

8 THE COURT: You may step down.

9 MR. BARNETTE: We'd ask for the witness to be excused,
10 Your Honor.

11 THE COURT: He may be. Thank you.

12 (Whereupon, the witness was excused.)

13 MR. BARNETTE: Your Honor, we'd call Nick Harakas to
14 the stand, please.

15 NICHOLAS HARAKAS, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q If you would, sir, state your full name for the
19 record.

20 A Nicholas Milton Harakas.

21 Q And where do you work at today, sir?

22 A I'm currently the general manager at Mack Discount in
23 Cowpens. I'm a second lieutenant in the Army National
24 Guard.

25 Q And back on November 9th of 2021, where was you

Nicholas Harakas
Direct examination by Mr. Barnette

1 working at, sir?

2 A I worked -- actually I worked the Arkwright area of
3 the Spartanburg County Sheriff's Office.

4 Q And how long was you in law enforcement, sir?

5 A Approximately eight years.

6 Q Back on that day was you on patrol, sir?

7 A Yes, sir. I was.

8 Q If you would, tell the jury about the call you got
9 concerning the armed robbery.

10 A So I actually -- I was at the sheriff's office. Like
11 I said, I -- I patrol the south side of Spartanburg, which
12 normally encountered Roebuck, Moore, Pauline and Arkwright.

13 But I had a training deputy. So I was a field
14 training officer. I trained the new hires that got brought
15 onto the sheriff's office prior to completion at the
16 academy. And I was at the sheriff's office picking him up.

17 About 7:40 or so the armed robbery call came out.
18 Having a new deputy it's always good to get them experience
19 on investigating cases and going to different types of
20 crime scenes.

21 So even though I patrolled the south side of the
22 county, I had the ability to go anywhere within Spartanburg
23 County and take my dep -- or my trainee.

24 So at that point we went to the call at the gas
25 station right there at Asheville Highway and Brown Street

Nicholas Harakas
Direct examination by Mr. Barnette

1 to assist Deputy Stephenson, I believe, who is the
2 reporting officer of the armed robbery side of it.

3 Q Okay. So when y'all arrived there did y'all receive
4 information about the armed robbery?

5 A Yes, sir.

6 Q As you was there, tell the jury what happened
7 afterwards.

8 A So we initially put a dog on the ground to try and
9 track because we had gotten word that there was -- or he
10 had left on foot.

11 we immediately tracked around to the back side of the
12 building where there were no cameras which are visual from
13 the road. And I believe that there were fresh tire tracks
14 and everything from that area where a vehicle had appeared
15 to have been parked.

16 Shortly after we started getting updated
17 information -- a lot of times when we have third-party
18 calls or calls from other people, it goes through our
19 dispatch and then comes to us. So the information can be
20 delayed.

21 So I was working, investigating the robbery. We
22 started getting updated information that the suspect
23 vehicle was possibly a red in color Durango.

24 So at that point myself, Deputy Evangelista -- we
25 talked around to the front side of the store to start

Nicholas Harakas
Direct examination by Mr. Barnette

1 trying to do more of the documenting aspect of the armed
2 robbery just to assist Deputy Stephenson.

3 Q Then what happened, sir?

4 A Sergeant Knisley at the time, he keyed up on the radio
5 saying that he was getting out with a vehicle that matched
6 the description of the red Durango.

7 He gave his location out and everything, and then very
8 shortly after he got out with the vehicle he advised over
9 the radio that he was in pursuit of the same vehicle that
10 he was out with.

11 He then started giving -- our standard practice for a
12 pursuit is giving the road conditions, the weather, the
13 speeds, everything like that.

14 So he -- we knew he was in pursuit of the vehicle
15 based off the information he was providing through the
16 radio.

17 He got around the New Cut-International Drive area
18 where the U-Haul was and advised that he lost the vehicle.

19 At that point I'd already gotten Deputy Evangelista
20 back in my vehicle and we were responding to the area of
21 Sergeant Knisley because he was pursuing the armed robbery
22 suspect on his own.

23 I believe at that point he advised he was no longer in
24 pursuit of the vehicle because he lost sight of it. And
25 I'd gotten to the intersection of Fairforest Road and New

Nicholas Harakas
Direct examination by Mr. Barnette

1 Cut.

2 we were kinda saturating the area, which is common
3 practice in law enforcement when we have a suspect vehicle
4 run. Saturate the area and try and locate the vehicle
5 again.

6 Shortly after Sergeant Knisley lost the vehicle.
7 Deputy Miller responded saying that he had possibly found
8 the vehicle at International Drive and Fairforest Road at
9 the new red light right there by Business 85.

10 So at that point I went ahead and reactivated all of
11 my lights and sirens to try and respond to Deputy Miller as
12 quickly as I could.

13 About the time I got to the red light Deputy Miller
14 was advising that he was in pursuit of the vehicle. He
15 crossed over Business 85 and had to slow down just a little
16 bit to get around some civilian vehicles.

17 when he went to accelerate I saw a big plume of smoke
18 come outta the exhaust of his -- his Tahoe. Knowing his
19 Tahoe and working with Deputy Miller for the eight years
20 I've been at the sheriff's office, I knew that he
21 consistently had some vehicle problems with -- with that
22 Tahoe with its age and, like he was saying, with the fact
23 that it constantly ran 12 hours a day, if not longer.

24 That's when I keyed up on the radio and asking if he
25 wanted to have me take over the pursuit because I was in a

Nicholas Harakas
Direct examination by Mr. Barnette

1 fairly new -- I was in a 2016 Tahoe that, I think, I had
2 substantially less wear and tear on it. It was -- I wasn't
3 having any problems with it.

4 So at that point he pulled over on the side of the
5 road. I took over pursuit of the Durango, and then we
6 continued down Fairforest onto North Blackstock.

7 We crossed over North Blackstock Road, I believe, at
8 Business 85. And it appeared that he maybe struck a
9 vehicle but I -- if you're familiar with North Blackstock
10 Road where it crosses over Business 85, it's kind of a
11 blind turn on the bridge.

12 I believe -- from what it appeared to me after the
13 dust had settled he had tried -- he'd attempted to go
14 around a vehicle, saw another oncoming vehicle. He just
15 braked really hard and it threw up a lot of dirt and dust
16 and -- and debris. But he got around the vehicles.

17 We continued around North Blackstock Road where the on
18 ramp to Business 85 southbound is. At that point he went
19 to turn, struck a tree.

20 I tried to get there fast enough to kind of box him
21 into the tree so that he wasn't going to be able to run any
22 more. But, unfortunately, he was able to get onto the on
23 ramp to Business 85 southbound.

24 As he approached the on ramp and started to merge onto
25 Business 85 southbound where the on ramp and the

Nicholas Harakas
Direct examination by Mr. Barnette

1 intersection -- or where the interstate come together
2 there's always that kinda grass triangle.

3 His back left tire clipped that triangle that -- that
4 portion of the area where the grass and the asphalt meet,
5 and it sent his car airborne over the southbound lanes of
6 Business 85 into the retaining wire and the median. And
7 then he rolled a few times in the northbound lane.

8 It was timing that there were no vehicles traveling
9 southbound or northbound. That was -- I think it was
10 purely because it was a Sunday. There was just not a lot
11 of traffic on the interstate.

12 At this point I got Deputy Evangelista out of the
13 vehicle with me. We both drew our service weapons due to
14 the fact that he was an armed suspect and began to close
15 the distance between us, because I parked my car on the
16 southbound side of 85.

17 I gave multiple commands using expletives for him to
18 get on the ground due to the situation, and he failed to do
19 so.

20 As law enforcement officers, we have a duty and a
21 responsibility to protect not only the citizens of
22 Spartanburg County but also the suspects.

23 So with him being in the center of Business 85 and
24 noncompliant, I had -- I still have a duty even if he's
25 committed the most heinous of acts to protect his person.

Nicholas Harakas
Direct examination by Mr. Barnette

1 So his lack of compliance, I had to use force to bring
2 him to the ground and detain him to get him off of the
3 interstate because there were still vehicles traveling down
4 85.

5 Also, the fact that he was armed and dangerous at the
6 time, we had vehicles stopping on the northbound lane at
7 the crest of the hill. Had there been a shootout it would
8 have put those civilians in a direct line -- line of fire
9 between myself and the suspect at the time.

10 So at that point I brought him to the ground. Deputy
11 Evangelista continued to provide -- it's considered lethal
12 coverage just because he has his firearm drawn. It's not
13 because he's doing anything lethal; it's not because he's
14 trying to take that next step. It's just he has his
15 service weapon drawn and he's using that to provide cover
16 while I use intermediate force, which would be physical
17 force or anything, like baton or taser or anything like
18 that, to effect the arrest.

19 I brought him to the ground with the assistance of a
20 few other officers. We were attempting to get him
21 detained.

22 He -- we got him onto his stomach, and once we got him
23 onto his stomach he continued to try and tuck his hands up
24 underneath him to stop us from being able to place him in
25 the handcuffs.

Nicholas Harakas
Direct examination by Mr. Barnette

1 At the time I didn't know if he had a firearm in his
2 waistband or what. So I -- I struck the -- struck him a
3 few times trying to get him to bring his hands out from
4 under his stomach to his face so that I could grab his arm.

5 It somewhat worked in the sense that I got his left
6 hand. I had a handcuff placed on his left hand, but he was
7 not detained. He was still resistive and he was still
8 combative.

9 His right arm was still tucked up underneath his
10 stomach. So at that point I stood up and advised the
11 responding officers who were assisting me to effect the
12 arrest that I was going to deploy my taser.

13 I then per policy said taser, taser, taser. Deployed
14 my taser. And due to that we were able to get his right
15 arm and place his right arm in handcuffs and secure him,
16 detain him and place him in the vehicle.

17 Q And once he was handcuffed, that was the end of that.

18 A Yes, sir. As soon as the handcuffs were placed, we
19 stood him up and walked him to the vehicle and put him in
20 another deputy's vehicle. No other force was used.

21 Q And, like you said, you didn't know where the gun was.

22 A No, sir. I did not.

23 Q Okay. At some point did your body cam cut off?

24 A Yes, sir. It did.

25 Q And why did it cut off?

Nicholas Harakas
Direct examination by Mr. Barnette

1 A The -- like Deputy Miller was saying, the older body
2 cams we had just had a toggle switch on the top. They were
3 notorious for getting in any sort of physical confrontation
4 or running or doing anything outside of just having them
5 record that they would -- they would cut off.

6 Q Let me show you State's Exhibit No. 4 here. Is this a
7 copy of your body-cam video that day, sir?

8 A Yes, sir. It is.

9 MR. BARNETTE: Your Honor, permission to introduce
10 State's Exhibit 4 into evidence.

11 MR. SNYDER: No objection.

12 THE COURT: It's admitted.

13 (B.W.C. of Nick Harakas marked State's Exhibit No. 4.)

14 Q Let me show you State's Exhibit 22. Is that a picture
15 from the video, sir?

16 A Yes, sir. It is.

17 Q Okay.

18 MR. BARNETTE: Your Honor, I'd like to enter State's
19 Exhibit 22 into evidence also.

20 MR. SNYDER: No objection.

21 THE COURT: It's admitted.

22 (Photograph marked State's Exhibit No. 22.)

23 MR. BARNETTE: Permission to publish, Your Honor.

24 THE COURT: You may.

25 (Whereupon, State's Exhibit No. 4 was played for the

Nicholas Harakas
Direct examination by Mr. Barnette

1 jury.)

2 Q And he didn't comply at that time, did he?

3 A No, sir. He did not.

4 Q And he resisted arrest that point.

5 A Yes, sir. He did.

6 Q He never got on the ground until you put him on the
7 ground.

8 A That's correct.

9 Q And, obviously, you could see cars up on the crest
10 like you were talking about in the video, is that right --

11 A Yes, sir.

12 Q -- from there? And did you ever -- you didn't know he
13 had the gun or not at that point.

14 A No, sir. I did not. I was unsure if it was on his
15 person or in the vehicle.

16 MR. BARNETTE: Permission to publish State's Exhibit
17 No. 22, Your Honor.

18 Q Is this a picture from the video, from your body-cam
19 video, sir?

20 A Yes, sir. It is.

21 Q And does this show a sleeve on his leg --

22 A Yes, sir. It does.

23 Q -- from there? And does it show the green shirt,
24 bluish-green sweater that he was wearing that day?

25 A Yes, sir. It does.

Nicholas Harakas
Cross-examination by Mr. Snyder

1 Q Do you see the individual in the courtroom today that
2 y'all had to arrest that day?

3 A Yes, sir.

4 Q Can you identify him for us, please?

5 A He's got a blue button-down, black slacks and a gray
6 and whitish top.

7 MR. BARNETTE: Your Honor, I'd ask for the record to
8 reflect that he's identified the defendant in this case.

9 THE COURT: It shall.

10 BY MR. BARNETTE

11 Q And, obviously, during the chase you had your blue
12 lights on the whole time.

13 A Yes, sir. I did my blue lights and sirens on.

14 Q At one point I know you were -- you thought he hit a
15 car before that.

16 A Yes, sir. That was the bridge on North Blackstock
17 that I was talking about it appeared he had hit a vehicle.
18 But I think he braked really hard to try and maneuver
19 around.

20 Q And I believe you said he was at least going 70 miles
21 an hour at some point.

22 A Yes, sir.

23 Q And what's the speed limit in those areas there?

24 A Thirty-five at the highest, and if it's not posted
25 it's 35.

Nicholas Harakas
Cross-examination by Mr. Snyder

1 Q And this all occurred in Spartanburg County, is that
2 right, sir?

3 A Yes, sir. It did.

4 Q Please answer any questions the defense may have for
5 you, sir.

6 CROSS-EXAMINATION

7 BY MR. SNYDER

8 Q Did you say you're not in law enforcement any more?

9 A No, sir. I'm not.

10 Q How long have you been out of law enforcement?

11 A I left in August of 2022, so this past August.

12 Q So less than a year after this happened.

13 A It's November of '21. I left in August of '22, so
14 yeah.

15 Q Why are you not in law enforcement any more?

16 A My zone partner was shot and murdered on June 21st of
17 2022.

18 Q I'm sorry about that.

19 You heard Officer Miller. He didn't initiate the
20 pursuant. Neither did you, correct?

21 A Sergeant Knisley initiated the first pursuit. It was
22 terminated due to losing visual of the suspect.

23 Deputy Miller initiated the second pursuit, and then I
24 took over the second pursuit once Deputy Miller's vehicle
25 couldn't keep up with the suspect vehicle.

Nicholas Harakas
Cross-examination by Mr. Snyder

1 Q And just to reiterate the question earlier, there was
2 no -- you weren't following the suspect from the incident
3 location to where he was ultimated arrested.

4 A No, sir.

5 Q Now, we just saw the -- your body camera. His hands
6 were in the air when y'all approached him.

7 A Yes, sir.

8 Q Before he was taken to the ground, his hands were in
9 the air, correct?

10 A That's correct.

11 Q And when he was taken to the ground he was begging
12 y'all to stop, correct?

13 A Yes, sir. Actions and words are different.

14 Q Right. But he had his hands in the air. He was taken
15 to the ground, and he was begging for y'all to stop.

16 A Yes, sir. That's correct. But it also takes half a
17 second to drop your hands from the air to your waistband to
18 draw a gun.

19 Q And I seen in your incident report that you -- you hit
20 him in the face with a closed fist. How many times?

21 A Two to three times.

22 Q Two to three times --

23 A Yes, sir.

24 Q -- with a closed fist. Did you tase yourself?

25 A So during the altercation when I went to take him to

Nicholas Harakas
Cross-examination by Mr. Snyder

1 the ground -- the X26B tasers that we were issued by the
2 sheriff's office -- if you picture just a handgun, on the
3 bottom side where the magazine for the handgun goes is the
4 battery for the taser.

5 That taser -- that battery also has a compartment for
6 an extra taser cartridge should you have to deploy more
7 than one cartridge at once.

8 In the altercation that battery, that compartment for
9 the extra taser, broke off.

10 Luck would have it for me. The leads for the battery
11 wrapped around my hand. So when I discharged the taser
12 into the suspect's back, into Mr. Wilbanks' back, it
13 basically went through my hand into my -- back into the
14 taser and discharged into Mr. Wilbanks. But it was a
15 successful taser deployment outside of my hand getting a
16 little bit tore up.

17 Q Okay. In your incident report you said this caused
18 the taser to discharge into the suspect and myself
19 simultaneously.

20 A Yes. So when electricity travels, it travels
21 extremely fast. So it went through myself and
22 Mr. Wilbanks.

23 Q And you just stated that he was partially -- the
24 suspect was partially handcuffed before you activated your
25 taser?

Nicholas Harakas
Cross-examination by Mr. Snyder

1 A No. He was not partially handcuffed at all. So being
2 handcuffed you either are completely handcuffed and
3 detained or you're not.

4 Q So you said one of his hands.

5 A His left hand had -- his left hand had a handcuff
6 secured around his wrist, but he was not remotely in
7 custody at that point.

8 Q But he was on the ground with police officers on top
9 of him.

10 A He was on the ground, physically noncompliant, with a
11 single handcuff on him with other officers attempting to
12 effect an arrest in the middle of Business 85 northbound.

13 Q With a single handcuff. You wouldn't say that's
14 partially handcuffed?

15 A You're either handcuffed or you're not.

16 Q Okay.

17 A So if you -- if I were to get a handcuff on somebody's
18 left hand there is a potential to have that handcuff
19 wrapped around their hand, and it can be used as a
20 intermediate weapon against law enforcement. So you're
21 either handcuffed or you're not.

22 Q Similar to Officer Miller, your body camera cut off
23 half way through the assault on the suspect, correct?

24 A So my body camera was cut off during a -- while I was
25 effecting the arrest on a combative suspect, yes, sir.

Nicholas Harakas
Redirect examination by Mr. Barnette

1 That's correct.

2 Q Okay. To just kind of just summarize the questions
3 and responses just now, the suspect's hands are up when he
4 got out of the car, correct?

5 A That is correct.

6 Q He was then taken to the ground where he was begging
7 the officers to stop, correct?

8 A He was verbally begging and physically resisting, yes,
9 sir. That's correct.

10 Q And is -- then you decide to punch him in the face two
11 or three times?

12 A while he tried to tuck his hands under his stomach in
13 a common area where people conceal firearms --

14 Q Okay.

15 A -- in an attempt to gain compliance, yes, sir.

16 Q Did he have a firearm on him?

17 A At the time of the arrest, he did not.

18 Q Okay. And when you activated your taser one of his
19 arms was handcuffed.

20 A There was a handcuff placed on one of his arms, but
21 there was no control.

22 Q Okay. And then, again, midway through the assault
23 your camera cut off.

24 A Midway through effecting an arrest of a violent armed
25 robbery suspect my camera did cut off, yes, sir.

1 Q Thank you.

2 MR. BARNETTE: Just a couple of questions, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. BARNETTE

5 Q Obviously, he never -- he didn't comply with you,
6 because, like I said, if he'd went on the ground to start
7 with would you have done that, what you had done?

8 A I would have simply placed him in handcuffs and
9 escorted him to a patrol vehicle.

10 Q I hate to ask this question. He asked you this
11 question.

12 why did you leave law enforcement, sir?

13 A My best friend and zone partner responded to a
14 domestic violence call on June 21st of 2022. When
15 attempting to interview the suspect of a domestic, he
16 basically executed him on the front steps.

17 Q Did you decide to leave law enforcement after that,
18 sir?

19 A Yes. I had his family and now mine. I have a
20 four-year-old little boy at home, so.

21 Q Yes, sir. Thank you.

22 THE COURT: Thank you. You may step down.

23 MR. BARNETTE: Your Honor, we'd ask for the witness to
24 be excused.

25 THE COURT: He may be.

Kevin Kyle
Direct examination by Mr. Barnette

1 (Whereupon, the witness was excused.)

2 THE COURT: We're going to take a break before we go
3 further.

4 I'll ask the jury to please retire to your jury room.
5 Do not discuss the case. I'll bring you back after that
6 break.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: We'll be in recess for 15 minutes.

10 (Whereupon, a recess was taken.)

11 THE COURT: All right. Are we ready for the jury?

12 MR. BARNETTE: The state's ready, Your Honor.

13 MR. SNYDER: Yes, sir.

14 THE COURT: Mr. Snyder, let me suggest that you and
15 Mr. Wilbanks -- give Mr. Wilbanks a pad and a pen, because
16 sometimes y'all's conversation gets loud. I can hear it
17 here. So if I can, the jury can too, and they're not
18 supposed to.

19 MR. SNYDER: Okay.

20 THE DEFENDANT: Yes, sir.

21 (The following takes place in the presence of the
22 jury.)

23 THE COURT: All right. We're going to continue with
24 the state's presentation.

25 Mr. Barnette.

Kevin Kyle
Direct examination by Mr. Barnette

1 MR. BARNETTE: May it please the Court, Your Honor. I
2 would like to call Kevin Kyle to the stand, please.

3 KEVIN KYLE, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BARNETTE

6 Q If you would, sir, please state your name for the
7 record.

8 A My name is Kevin Kyle.

9 Q And where do you work at, sir?

10 A I work for Spartanburg County Sheriff's Office.

11 Q And what's position there, sir?

12 A Currently I'm a narcotics investigator.

13 Q Okay. Back in November of 9th of 2021, what was your
14 position then, sir?

15 A I was assigned to the violent crimes unit as an
16 investigator.

17 Q And how long have you been in law enforcement, sir?

18 A Sixteen years.

19 Q And prior to going into violent crimes did -- had you
20 worked narcotics before that, sir?

21 A Yes, sir. I've -- altogether now it's about seven
22 years experience. I also did three years as a T.F.O. with
23 the D.E.A.

24 Q Was you called out to the scene on November 9th of
25 2021 to look at a red Durango and look inside of it or look

Kevin Kyle
Direct examination by Mr. Barnette

1 at the evidence inside of it?

2 A I believe I went to the scene where the chase ended.

3 Q Okay. And did you get the search -- was there a
4 search warrant got for the car?

5 A Yes, sir, yes.

6 Q And did y'all execute the search warrant?

7 A Yes. I did.

8 Q And in executing that search warrant did y'all find
9 drugs inside the car?

10 A We did.

11 Q Okay. Let me show you what's been marked as State's
12 Exhibits 29, 30, 31, 32 and 33. Let me let you look
13 through those real quickly, sir.

14 A Yes, sir.

15 Q Do those pictures fairly represent what you saw that
16 day?

17 A Absolutely.

18 MR. BARNETTE: Your Honor, I'd like to enter these
19 into evidence at this time. That's 29 through 33, Your
20 Honor.

21 MR. SNYDER: No objection.

22 THE COURT: They're admitted.

23 (Photographs marked State's Exhibits Nos. 29 through
24 33.)

25 MR. BARNETTE: Permission to publish, Your Honor.

Kevin Kyle
Cross-examination by Mr. Snyder

1 THE COURT: You may.

2 Q Showing the jury State's Exhibit 29. Was these the
3 items that you found and what you saw in the floorboard of
4 the driver's-side floorboard of the red Durango?

5 A They are.

6 Q And did y'all look inside of this bag right here, sir?

7 A I did.

8 Q Showing you State's Exhibit 30. Once you opened it
9 up, what did you find inside, sir?

10 A Well, specifically, that bag of a crystal-like
11 substance, what I recognized to be methamphetamine.

12 Q Is this it right here, sir?

13 A Yes, sir.

14 Q Showing you State's Exhibit 31. Did y'all field test
15 the meth?

16 A I did. You can see that plastic pouch next to the bag
17 of crystal substance. I take a small piece of the
18 substance itself and put in there, break an ampule. And if
19 it has a correct reaction, it will turn blue, which is an
20 indication for the presence of meth.

21 Q And did it do that, sir?

22 A It did.

23 Q And this item right here, did you look inside of it
24 too?

25 A I did.

Kevin Kyle
Cross-examination by Mr. Snyder

1 Q Showing you State's Exhibit 32. was this an item that
2 you looked in also, sir?

3 A Yes, sir. That is it.

4 Q And showing you State's Exhibit 33. what did you find
5 inside there, sir?

6 A Well, you can see the mints, and then you can also see
7 what looks like some blue pills that shouldn't be in there.

8 Q Was that gathered -- I guess Investigator Dail
9 actually collected it, but you actually found them and saw
10 them.

11 A Correct. Yeah.

12 Q And showing you what's been marked as State's
13 Exhibit -- well, there's actually two of them here.
14 Showing you State's Exhibits -- I believe they're going to
15 be 11 -- 9 and 11. Was those the items that y'all found
16 inside or that you saw inside the car?

17 A They are.

18 Q And was this collected by Investigator Dail?

19 A They were.

20 Q If you would, please, sir, answer any questions that
21 Mr. Snyder may have for you.

22 MR. SNYDER: Very briefly.

23 CROSS-EXAMINATION

24 BY MR. SNYDER

25 Q The vehicle in question was the red Dodge Durango,

Jeffrey Dail
Direct examination by Mr. Barnette

1 correct?

2 A Yes, sir.

3 Q That vehicle was registered to a -- who was it
4 registered to?

5 A I couldn't tell you that off the top of my head.

6 Q So all you know is that drugs were found inside a
7 Dodge -- a red Dodge Durango.

8 A The red Dodge Durango that was towed to the county
9 shop after the chase ended.

10 Q And there were drugs in the car, and that's all you
11 know about this incident.

12 A Well, I know --

13 Q That's all -- that's all -- that was all related to
14 the search, is you got a search warrant, searched the car
15 and found drugs.

16 A Absolutely.

17 Q And that's your involvement in this case.

18 A I believe that I might have signed some of the
19 warrants, the drug warrants.

20 Q But basically.

21 A Yes.

22 Q Okay. Thank you.

23 MR. BARNETTE: May we approach for a second, Your
24 Honor?

25 (Bench conference held off the record in the presence

Jeffrey Dail
Direct examination by Mr. Barnette

1 of the jury but out of the hearing of the jury.)

2 MR. BARNETTE: Your Honor, I have no further questions
3 of the witness. We'd ask the witness be excused.

4 THE COURT: Thank you. You may step down. You may
5 also be excused.

6 THE WITNESS: Yes, sir.

7 (Whereupon, the witness was excused.)

8 MR. BARNETTE: Your Honor, I'd like to call
9 Investigator Dail to the stand.

10 JEFFREY DAIL, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q If you would, sir, please, state your full name for
14 the record.

15 A Jeffrey Dail.

16 Q And where do you work at, sir?

17 A Spartanburg County Sheriff's Office.

18 Q And what's your position there, sir?

19 A Forensic investigator.

20 Q How long have you been in law enforcement, sir?

21 A Law enforcement total 14 and a half, close to 15,
22 years.

23 Q Back on November 9th of 2021 was you called to the
24 scene on I-85, Business 85?

25 A Yes, sir. I was.

Jeffrey Dail
Direct examination by Mr. Barnette

1 Q And when you arrived there, what did you do, sir?

2 A My job as a forensic investigator is to look at the
3 scene, take overall photographs of the scene to be able to
4 document at a later time.

5 On that particular scene I took photographs of the
6 Durango sitting in the -- I guess it would be the
7 northbound lane of Business 85 -- the skid marks, the --
8 the cable, barricade cable, between north and southbound
9 lane. And from that point we did not take photographs or
10 enter the vehicle until after the vehicle was towed to the
11 county maintenance shop when a search warrant was obtained
12 for it.

13 Q Let me show you -- let me show to you State's
14 Exhibits 23 --

15 A Yes, sir.

16 Q -- 24, 25, 26, 27, 28. Now, the pictures, 29 through
17 33, you also took those pictures when y'all did the search
18 warrant.

19 A Correct.

20 Q Is that right, sir?

21 A Okay.

22 Q State's Exhibits 34, 35, 36, 37, 38.

23 A Yes, sir.

24 Q Did you take all of those pictures, sir?

25 A Yes, sir, to the best of my knowledge, yes, sir.

Jeffrey Dail
Direct examination by Mr. Barnette

1 Q And do those fairly represent what you saw that day
2 when you did these?

3 A That's correct.

4 MR. BARNETTE: Your Honor, I'd like move all of these
5 into evidence at this time.

6 MR. SNYDER: No objection.

7 THE COURT: Give me those numbers again.

8 MR. BARNETTE: Your Honor, it's 23, 24, 25, 26, 27,
9 28, 34, 35, 36, 37, 38.

10 THE COURT: They're admitted.

11 (Photographs marked State's Exhibits Nos. 23, 24, 25,
12 26, 27, 28, 34, 35, 36, 37, 38.)

13 MR. BARNETTE: Thank you, Your Honor. May I publish
14 them to the jury?

15 THE COURT: You may.

16 BY MR. BARNETTE

17 Q Showing the jury State's Exhibit 23. Can you describe
18 this to us, sir?

19 A That's on the northbound side of Business 85. You can
20 see the skid marks and the dirt debris where the vehicle
21 crossed the median, crossed through the barricade and came
22 to a rest on the northbound side.

23 Q Showing you State's Exhibit No. 24. Can you describe
24 what this is, sir?

25 A From there I'm on the southbound side right at the

Jeffrey Dail
Direct examination by Mr. Barnette

1 barricade. You can see a little bit of the cable in the
2 bottom right side. But, again, you can see the dirt and
3 debris leading to the vehicle with the vehicle facing back
4 to the northbound side of Business 85.

5 Q And, obviously, traffic stopped while this was going
6 on, is that right?

7 A That is correct.

8 Q State Exhibit 25. Can you describe what this is, sir?

9 A That's the vehicle in question. That was the
10 passenger side. You can see the door, the driver's-side
11 door, open. Both of the passenger tires were blown out,
12 and the vehicle was just at rest.

13 Q State's Exhibit 26. Can you tell us what that is,
14 sir?

15 A That was a hat that was located near the vehicle. I
16 photographed it and took it as evidence based on the
17 description that was given to us at the gas station.

18 Q State's Exhibit 27. Can you describe what this is,
19 sir?

20 A That, again, is the cable going back across to the
21 northbound-southbound side where the cable had been torn
22 and separated from the barricade.

23 Q Okay. Let me show you State's Exhibit 28. Can you
24 describe that this is, sir?

25 A Inside on the driver's side in the floorboard the --

Jeffrey Dail
Direct examination by Mr. Barnette

1 you have a machete, some loose cash and a black container
2 that you mentioned earlier with Investigator Kyle.

3 Q Was there also -- was there also a gun found there
4 too, sir?

5 A Yes. There is to the top just above the -- it looks
6 like just above the cash.

7 Q And I believe I entered these earlier with
8 Investigator Kyle, but this is a picture you took.

9 A That is correct.

10 Q Is that a closeup picture of the black box where the
11 drugs was found?

12 A That is correct with the gun beside it. I had a
13 bottle of some liquid. I can't tell you what it was, and
14 then a machete.

15 Q And just going through these again. I know the jury
16 has seen it. State's Exhibit 30 is the pictures you took
17 where Investigator Kyle found the drugs.

18 A That is correct.

19 Q And State's Exhibit 31 is where it was field tested.

20 A Yes.

21 Q State's Exhibit 32 is the container where -- and
22 State's Exhibit 33 is where the pills was found inside the
23 container, is that right, sir?

24 A Yes.

25 Q Show you State's Exhibit 34. Is this the

Jeffrey Dail
Direct examination by Mr. Barnette

1 passenger-side floorboard?

2 A That's the passenger-side floorboard. During the
3 crime at the gas station the subject had a mask, a bluish
4 mask, over the top of his face, and that's right there,
5 yes.

6 Q Is that the mask? Okay. I know it's hard to see, but
7 is there also gloves there also, sir?

8 A Yes. He had -- in my report I had that they were red
9 and black Milwaukee gloves, and we were able to find a pair
10 of Milwaukee gloves in the floorboard on the passenger
11 side.

12 Q Show you what's been marked State's Exhibit 35. Is
13 that a closeup picture of the gloves?

14 A That is.

15 Q Okay. State's Exhibit 36. What is that a picture of,
16 sir?

17 A A closer view of the blue mask that he, subject, was
18 wearing.

19 Q Okay. And State's Exhibit 37. Did y'all also find a
20 wallet of Mr. Wilbanks?

21 A A wallet with a large sum of cash in it.

22 Q And, as a matter of fact, that's his social security
23 number, says Timothy Wayne Wilbanks, is that right, sir?

24 A Yes, sir.

25 Q And did you take -- State's Exhibit 38. Is this the

Jeffrey Dail
Direct examination by Mr. Barnette

1 money that y'all found in the wallet, as well as the card
2 itself?

3 A It is. We laid it out on the -- on the table there at
4 the sheriff's office and got an overall view of the
5 denomination of the cash that we found.

6 Q And was it \$319 that y'all found?

7 A Yes, sir.

8 Q Did you collect some of these items, sir?

9 A Yes. I did.

10 Q Let me let you look at State's Exhibit -- showing you
11 State's Exhibits 2, 5, 6 and 12.

12 A Okay.

13 Q I'll let you look at that. And, if you would, take a
14 look at State's Exhibits 9 and 11, sir.

15 A Yes, sir.

16 Q Did you collect all of these items?

17 A I did.

18 Q And did you place them into evidence?

19 A I did.

20 Q And, obviously, I know this bag has been opened. Did
21 you seal this, what we call the BEST bag, from that
22 standpoint?

23 A I did.

24 Q And it was sealed when you placed it into evidence.

25 A That is correct.

Jeffrey Dail
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I'd like to introduce at
2 this time State's Exhibit 2, State's Exhibit 6, State's
3 Exhibit 5, State's Exhibit 12 and 9 and 11.

4 Your Honor, permission with the witness to open up the
5 bags at this time.

6 Q Let me let you go ahead and open up these items, sir,
7 and see if you can identify them for the defense.

8 THE COURT: Identify the exhibit number too.

9 A This exhibit is No. 2. It is a 177 caliber pellet
10 pistol that is made to look like a Smith and Wesson M & P
11 pistol. The manufacturer of the pellet pistol designed it
12 to look identical to what Smith and Wesson sells as a 9mm
13 or 40 caliber that you wouldn't know the difference if you
14 had it pulled on you.

15 MR. BARNETTE: Your Honor, I'd like to enter State's
16 Exhibit No. 2 into evidence at this time.

17 MR. SNYDER: No objection.

18 THE COURT: It's admitted.

19 (Pellet pistol marked State's Exhibit No. 2.)

20 Q If you would, take a look at State's Exhibit No. 5
21 next. Keep them in order.

22 A Yes, sir.

23 Q If you would, take a look at that, sir.

24 A A pair of red and black Milwaukee gloves that we
25 discovered in the front passenger floorboard, I believe, of

Jeffrey Dail
Direct examination by Mr. Barnette

1 the vehicle.

2 MR. BARNETTE: Your Honor, I'd like to move these into
3 evidence at this time.

4 MR. SNYDER: No objection.

5 THE COURT: They're admitted.

6 (Red and black Milwaukee gloves marked State's Exhibit
7 No. 5.)

8 Q No. 6.

9 A No. 6. This is the blue mask that was discovered in
10 the front passenger floorboard of the vehicle. It's gator
11 style mask. Goes around the neck and pulls up. You can
12 see the eyes.

13 Q Yes, sir.

14 MR. BARNETTE: I'd move State's Exhibit 6 into
15 evidence at this time.

16 MR. SNYDER: No objection.

17 THE COURT: It's admitted.

18 (Blue "GoCool" gator style mask marked State's Exhibit
19 No. 6.)

20 Q No. 12 if you would, sir.

21 A This is the hat. It's got a similar front with a
22 Draxlmier -- Draxlmire, white lines on it on both sides.
23 And it was discovered on the Business 85 near the vehicle
24 which met the description of the subject at the gas
25 station.

Jeffrey Dail
Direct examination by Mr. Barnette

1 Q Okay.

2 MR. BARNETTE: Your Honor, I would ask to move that
3 into evidence at this time.

4 MR. SNYDER: No objection.

5 THE COURT: It's admitted.

6 (Black hat with Draexlmaier across front marked
7 State's Exhibit No. 12.)

8 Q If you would, take a look at State's Exhibits 9 and
9 11, sir.

10 A This is the bag that I initially sealed the recovered
11 drugs in, sign it and put my initials beside it.

12 These are the drugs that were discovered inside the --
13 inside the vehicle or inside that little black case.

14 MR. BARNETTE: Your Honor, I'd move 9 and 11 into
15 evidence at this time.

16 MR. SNYDER: No objection.

17 THE COURT: It's admitted.

18 (Bag of meth marked State's Exhibit No. 9; bag of
19 Clonazepam marked State's Exhibit No. 11.)

20 MR. BARNETTE: Permission to publish to the jury, Your
21 Honor.

22 Q I will let you go ahead and put that back. Let you
23 put it together, not back in, just if you would.

24 A Put them back together?

25 Q Yes, sir. Thank you.

Jeffrey Dail
Cross-examination by Mr. Snyder

1 MR. BARNETTE: Your Honor, may I just walk and let the
2 jury see it?

3 THE COURT: Let's put a lock on it.

4 MR. BARNETTE: Your Honor, can I let just them see it
5 like this first and then put the lock into it? It's not
6 loaded from that standpoint. Your Honor, this is State's
7 Exhibit No. 2.

8 THE COURT: Be sure it's not pointed at anyone.

9 MR. BARNETTE: No, sir. I'm not going to point it at
10 anyone. I'm pointing it straight down.

11 State's Exhibit No. 2, Your Honor.

12 Permission to publish State's Exhibit No. 5 to the
13 jury.

14 THE COURT: You may publish them all.

15 MR. BARNETTE: Your Honor, this is State's Exhibit
16 No. 6; State's Exhibit No. 12, Your Honor. Thank you, Your
17 Honor.

18 Your Honor, 9 and 11, if I could publish that to the
19 jury also.

20 One moment, Your Honor.

21 (Pause.)

22 Q If you would, sir, please answer any questions the
23 defense may have for you.

24 A Yes, sir.

25

Jeffrey Dail
Cross-examination by Mr. Snyder

1 CROSS-EXAMINATION

2 BY MR. SNYDER

3 Q Now, is it Investigator Dail?

4 A Dail.

5 Q Dail. And you're a forensic investigator with the
6 sheriff's office?

7 A That's correct.

8 Q So your job is basically to go to crime scenes and
9 take pictures and test for fingerprints, stuff like that?

10 A Collect evidence, do whatever I need to at the scene
11 to collect whatever we need for court later, or later.

12 Q So that includes taking pictures.

13 A It does.

14 Q And testing for fingerprints and stuff.

15 A It does.

16 Q Okay. And in your incident report here it says you
17 took pictures of the suspect's facial injuries.

18 A Yeah. He had -- I don't remember taking pictures of
19 the facial injury. I mean, it's a year and change ago. I
20 don't remember that.

21 I do remember I took photos of -- I believe it was his
22 back that got tased with Deputy Harakas. I did take photos
23 of the taser prongs. But I don't remember his face. I
24 mean, it's over a year ago.

25 Q But did you have pictures that have the suspect's face

Jeffrey Dail
Cross-examination by Mr. Snyder

1 in them?

2 A I just answered. I don't remember. It was over a
3 year ago. I see thousands of cases every year. So I can't
4 remember this specific one as far as taking a picture of
5 his face.

6 Q Right. But if it's in your incident report, probably
7 you took pictures of his face.

8 A Yes. If I wrote it in my incident report, I did take
9 it, yes.

10 Q Okay. And you would have taken pictures of his face
11 because he had injuries on his face.

12 A I would presume, yes.

13 Q And he had injuries on his face because he was just
14 assaulted by the police department.

15 A I cannot answer that because I was not there. I was
16 called after everything was done and he was secured in
17 handcuffs.

18 Q Now, getting to this, this Dodge Durango, now, you
19 know that car was not registered to my client, correct?

20 A No. I do not know. I know that vehicle was at the
21 scene.

22 Q Okay. And you said that that is a pellet pistol?

23 A Yes.

24 Q So it's not capable of firing a live round.

25 A It's capable of firing a 177 caliber pellet.

Jeffrey Dail
Redirect examination by Mr. Barnette

1 Q Not a real gun.

2 A It looks just like a real gun. If you have it pointed
3 at your face, you won't know the difference.

4 Q Right. It's not a real gun.

5 A Okay.

6 THE COURT: He's asking you.

7 MR. SNYDER: He answered.

8 THE COURT: But you made a statement.

9 MR. SNYDER: I made a question and he answered.

10 THE COURT: Well, you made a statement. You can ask a
11 question.

12 MR. SNYDER: He answered my statement.

13 THE COURT: Well, if you have a question, be sure it's
14 in the form of a question.

15 BY MR. SNYDER

16 Q As a forensic investigator you do not test for
17 fingerprints of objects outside of that car, correct?

18 A No. I did not do any latent prints ON that vehicle.

19 Q That's your job, correct?

20 A That is one of my many jobs.

21 Q But you didn't do it in this case.

22 A I did not do any latents on that vehicle.

23 Q This event occurred in November of 2021.

24 A November 9th of 2021.

25 Q And is it fair to say that during that time we were in

Jeffrey Dail
Redirect examination by Mr. Barnette

1 the middle of a pandemic?

2 A Okay.

3 Q Yes?

4 MR. BARNETTE: Your Honor, I'm going to object. I
5 mean, he's not answering questions. He's just making
6 statements.

7 THE COURT: well, yeah. I don't really understand it.

8 This is a question-and-answer thing, not a
9 make-a-statement and he's supposed to guess whether it's
10 right or wrong.

11 MR. SNYDER: I asked were we in the middle of a
12 pandemic at this time.

13 BY MR. SNYDER

14 A COVID was going on at the time, yes.

15 Q So many people had masks, correct?

16 A Yes.

17 Q So it's not uncommon for someone to have a mask in
18 their car, correct?

19 A I could see that, yes.

20 Q Thank you.

21 THE COURT: Mr. Barnette.

22 REDIRECT EXAMINATION

23 BY MR. BARNETTE

24 Q Is this picture a fair representation of what you saw
25 that day with Mr. Wilbanks?

Jacob Jackson
Direct examination by Mr. Barnette

1 A Yes, to the best of my knowledge, yes, sir.

2 THE COURT: Well, you need to -- he's the one that
3 took that picture that's been referred to.

4 MR. BARNETTE: I don't think he took it.

5 THE WITNESS: That particular picture, I did not.
6 That was done at the jail, sir.

7 MR. SNYDER: Judge, I object to the admission of that
8 photo. He didn't take it. We don't --

9 THE COURT: All right.

10 MR. BARNETTE: Okay. But, Your Honor, I'm going to
11 reserve the right to recall him and get the picture of Mr.
12 -- let the jail get the picture they took of him at the
13 thing. I'll reserve that right.

14 THE COURT: Well, yeah. He asked him about that
15 picture he took. He says he doesn't remember, and so
16 that's -- that was the description with this witness.

17 MR. BARNETTE: Yes, sir. I'll reserve the right to
18 call him back if that's okay, Your Honor, with that
19 situation.

20 THE COURT: You may.

21 MR. BARNETTE: Your Honor, I don't have any more
22 questions of him, reserving the right to call him back from
23 there.

24 THE COURT: Okay. You may step down. Thank you.

25 THE WITNESS: Yes, sir.

Jacob Jackson
Direct examination by Mr. Barnette

1 THE COURT: Subject to recall so be available.

2 MR. BARNETTE: Your Honor, we would like to call
3 Mr. Jackson to the stand -- Investigator Jacob Jackson.

4 JACOB JACKSON, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q If you would, sir, state your full name for the
8 record.

9 A Jacob Jackson.

10 Q Where do you work at, sir?

11 A Spartanburg County Sheriff's Office.

12 Q And what's your position there, sir?

13 A I'm a forensic chemist in their laboratories.

14 Q And how long have you worked there, sir?

15 A Little over two years and eight months.

16 Q And what kind of education do you have concerning
17 chemistry, sir?

18 A I have my associate's and then my narcotics and then
19 bachelors of science in biology with a minor in chemistry.

20 Q And have you received training on analysis of drugs?

21 A I was certified in controlled substance analysis and
22 semi quantitated marijuana analysis by the Spartanburg
23 County Sheriff's Office.

24 Q And you work with Dr. Stewart here with that.

25 A I do.

Jacob Jackson
Direct examination by Mr. Barnette

1 Q And how many samples have you tested, sir?

2 A Approximately 7,000 today.

3 Q Okay. And are those peer reviewed by Dr. Stewart?

4 A All of them.

5 Q And, obviously, if you'd made any mistakes or whatever
6 you wouldn't be able to do this job, is that right?

7 A Correct.

8 Q And you've been qualified to do this job from that
9 standpoint, your experience, as well as your education.

10 A Correct.

11 MR. BARNETTE: Your Honor, I'd like -- I move him as
12 an expert in chemistry at this time, or chemist analysis.

13 MR. SNYDER: No objection.

14 THE COURT: He is so qualified.

15 BY MR. BARNETTE

16 Q If you would, sir, please take a look at State's
17 Exhibits 9 and 11. We had to open the bag to separate the
18 drugs. And did you receive these drugs from Investigator
19 Dail?

20 A I did, yes, sir.

21 Q And did you do an analysis on those?

22 A I did.

23 Q And did you create a report on those, sir?

24 A I did.

25 THE COURT: Be sure to use that microphone.

Jacob Jackson
Direct examination by Mr. Barnette

1 Q And let me show you State's Exhibit 13. Is this a
2 copy of your report that you did in this case?

3 A It is, yes.

4 Q And what did you find the items to be, sir?

5 A For Item 1.

6 Q Which is State's Exhibit No. 9, is that right? Yeah.
7 Nine.

8 A Found to be methamphetamine, 6.44 grams of it.
9 For Item 1-B, which is 11 --

10 Q Yes, sir.

11 A -- I found it to be Clonazepam.

12 Q And, obviously, that's illegal to obtain, is that
13 right?

14 A Correct.

15 Q And Clonazepam is a controlled substance.

16 A It is. Schedule IV.

17 Q Okay.

18 MR. BARNETTE: Your Honor, I'd like to move State's
19 Exhibit 13 into evidence at this time.

20 MR. SNYDER: No objection.

21 THE COURT: It's admitted.

22 (Drug report marked State's Exhibit No. 13.)

23 MR. BARNETTE: May I publish it to the jury, Your
24 Honor?

25 THE COURT: You may.

Jon Guest
Direct examination by Mr. Barnette

1 Q And the meth, you said, was 6.4 grams.

2 A 44, correct.

3 Q 44 grams on that. And the blue tablets, the
4 Clonazepam, that is -- what schedule drug is that, sir?

5 A Schedule IV.

6 Q And it's illegal to have unless you have a
7 prescription, is that right, sir?

8 A To the best of my knowledge, correct.

9 Q And then what is meth? what schedule drug is it?

10 A Schedule II.

11 THE COURT: That's not the microphone. The one closer
12 to you is the one to use.

13 THE WITNESS: Thank you.

14 A Schedule II.

15 Q And it's considered illegal, is that right?

16 A To the best of my knowledge, yes.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q If you will, please answer any questions the defense
20 may have for you, sir.

21 MR. SNYDER: I have no questions.

22 THE COURT: Thank you. You may step down.

23 MR. BARNETTE: We'd ask for the witness to be excused,
24 Your Honor.

25 THE COURT: He may be.

Jon Guest
Direct examination by Mr. Barnette

1 (Whereupon, the witness was excused.)

2 MR. BARNETTE: Your Honor, I'd to like call
3 Investigator Guest to the stand.

4 JON GUEST, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q If you would, sir, please state your name for the
8 record, please.

9 A My name is Jon Guest.

10 Q And where do you work at, sir?

11 A Spartanburg County Sheriff's Office.

12 Q And what's your position there, sir?

13 A I am a violent crime detective in investigations.

14 Q Yes, sir. How long have you been in law enforcement,
15 sir?

16 A A little over 17 years.

17 Q Back on November 9th of 2021, what position did you
18 have then, sir?

19 A I was in violent crime.

20 Q And was you called concerning an armed robbery and
21 chase?

22 A Yes. I believe I was notified by Lieutenant Wilson on
23 the road. Several of us responded to the scene where the
24 accident occurred. And then I was asked to go to the
25 hospital to speak with the suspect.

Jon Guest
Direct examination by Mr. Barnette

1 Q And did you speak to Mr. Wilbanks?

2 A I did.

3 Q Do you see him in the courtroom here today?

4 A I do.

5 Q Can you identify him for us?

6 A Blue dress shirt, black slacks, a blue or darkened,
7 black colored tie, gray hair at the defendant table.

8 MR. BARNETTE: Your Honor, I'd ask that the record
9 reflect that he identified the defendant.

10 THE COURT: It shall.

11 BY MR. BARNETTE

12 Q When you got there, if you would, tell the jury about
13 that.

14 A So when I arrived on -- at the hospital. Well, first,
15 when I arrived on the scene I was told by Sergeant
16 Letterman that -- asked to go speak to the suspect at the
17 hospital. He told me that he had already Mirandized the
18 individual. I was not present for that.

19 So when I arrived at the hospital to speak with
20 Mr. Wilbanks, I audio recorded the interview, and I
21 reissued his Miranda warning just out of my own policy. If
22 I'm not present for it, that way I know in my mind that it
23 was done. I issued him his Miranda warning and interviewed
24 him.

25 Q And did you record all -- audio-record that interview?

Jon Guest
Direct examination by Mr. Barnette

1 A I did.

2 Q Okay. And also did you collect the shirt or the
3 sweater he was wearing?

4 A Yes. I believe his shirt, a blue shirt and like a
5 long sleeved teal shirt, were already in a bag the hospital
6 staff had taken off of him. They put a gown on him.

7 Q Okay. And, if you would, take a look at State's
8 Exhibit 10 and see if those are the items that you
9 collected.

10 A Yes.

11 MR. BARNETTE: Do you want him to open and identify?

12 MR. SNYDER: Yes.

13 MR. BARNETTE: Your Honor, permission for him to open
14 State's Exhibit 10 --

15 THE COURT: He may.

16 MR. BARNETTE: -- per the defendant's request.

17 BY MR. BARNETTE

18 A It's a green, light green, teal, Merino X-L shirt and
19 a blue Haynes X-L t-shirt.

20 Q Okay.

21 MR. BARNETTE: Your Honor, I'd move these into
22 evidence at this time.

23 MR. SNYDER: No objection.

24 THE COURT: They are admitted.

25 (Green long-sleeve shirt and t-shirt marked State's

Jon Guest
Direct examination by Mr. Barnette

1 Exhibit No. 10.)

2 MR. BARNETTE: May I publish them to the jury, Your
3 Honor?

4 THE COURT: You may.

5 MR. BARNETTE: Thank you, sir.

6 BY MR. BARNETTE

7 Q I show you State's Exhibit No. 1. Is this a copy of
8 your interview with the defendant?

9 A Yes.

10 Q And does it fairly represent what y'all talked about?

11 A Yes.

12 MR. BARNETTE: Your Honor, I'd like to move State's
13 Exhibit 1 into evidence at this time.

14 MR. SNYDER: Subject to my previous objections.

15 THE COURT: It's admitted.

16 (Interview of defendant marked State's Exhibit No. 1.)

17 MR. BARNETTE: Thank you, Your Honor. May I publish
18 it to the jury?

19 THE COURT: You may.

20 MR. BARNETTE: Your Honor, I may just play one T.V.
21 because of the echo between the two of them if that's okay.

22 THE COURT: All right. Which one are you playing it
23 through?

24 MR. BARNETTE: This one if that's okay, Your Honor.

25 THE COURT: Yeah. This is an audio. There's no

Jon Guest
Direct examination by Mr. Barnette

1 video.

2 (Whereupon, State's Exhibit No. 1 was played for the
3 jury.)

4 THE FOREPERSON: May I speak to you?

5 THE COURT: Yes, ma'am.

6 (Bench conference held off the record with foreperson
7 off the record.)

8 THE COURT: Let me ask the jury to please go to your
9 jury room, and I'll address one matter and bring you back
10 shortly.

11 (The following takes place outside the presence of the
12 jury.)

13 (Bench conference held off the record with attorneys.)

14 THE COURT: You can step down from the stand right
15 now, but don't discuss your testimony during the break.
16 We'll be at ease for a few minutes.

17 MR. BARNETTE: Your Honor, do you mind if I check on
18 some pictures real quick?

19 THE COURT: That's fine.

20 (Whereupon, a recess was taken.)

21 THE COURT: Due to the -- you can step down.

22 Due to the time, I think we'll break for lunch. We'll
23 recess for lunch and start back this afternoon and continue
24 with the examination.

25 All right. Bring the jury in, please, sir.

Jon Guest
Direct examination by Mr. Barnette

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: Ladies and gentlemen, because of the time
4 we're going recess for lunch. We'll start back this
5 afternoon at 2:15 -- 2:15.

6 So keep in mind you can't talk about the case during
7 the break. Please report to your jury room this afternoon
8 at 2:15. Have a good lunch.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: All right. Let the record reflect that I
12 have had a conversation with the juror who asked to speak
13 with me. It related to her recognition of the defendant.

14 And I have discussed that issue with counsel and I
15 have also interviewed the juror in chambers. And then I
16 have again discussed that conversation with counsel.

17 And as I understand it, at the present there's no
18 objection to the juror continuing to serve. Is that
19 correct?

20 MR. BARNETTE: That's correct, Your Honor, in that
21 case.

22 MR. SNYDER: Yes, sir. None from us.

23 THE COURT: Okay. All right. Court is in recess
24 until 2:15.

25 (Whereupon, a recess was taken.)

Jon Guest
Direct examination by Mr. Barnette

1 THE COURT: Bring the jury in, please.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: All right. When we recessed the witness
5 was Jon Guest, and he was playing the audio.

6 Mr. Guest, you can come back around. You're still
7 under oath.

8 MR. BARNETTE: Your Honor, may we continue publishing
9 State's Exhibit 1, the audio?

10 THE COURT: Yes.

11 (Whereupon, State's Exhibit No. 1 was continued to be
12 played for the jury.)

13 Q Medical personnel come in at that time --

14 A Yes, sir.

15 Q -- to retrieve him. Obviously, you just let him talk,
16 is that right?

17 A Yes, sir.

18 Q Did you promise him anything for that?

19 A No, sir.

20 Q Did you threaten him in any way?

21 A No, sir.

22 Q And you gave him his Miranda warnings obviously
23 through there.

24 A Yes, sir.

25 Q When you was talking to him, you asked him if he was

Jon Guest
Direct examination by Mr. Barnette

1 injured. Did he indicate he was injured or anything like
2 that?

3 A No.

4 Q And he'd rolled a car --

5 A Yes.

6 Q -- from that standpoint. Did you see any obvious
7 injuries other than bruising or anything else like that
8 from that standpoint?

9 A Not that I recall, no. Didn't note any.

10 Q And you collected his --

11 A Two shirts.

12 Q -- the two shirts he had worn that day --

13 A Yes, sir.

14 Q -- from there. And one other thing I wanted to ask
15 you too about. Make sure to explain this to the jury. Let
16 me show you State's Exhibit No. 20. The number on the
17 body-cam videos up top.

18 A Yes.

19 Q The time on that -- what kind of time is that?

20 A That's Zulu or U.T.C. time. It is four hours ahead of
21 real time. I know it makes it complicated, but you have to
22 do the math in your head to minus -- you have to subtract
23 four hours to actually get the time. So that says 1309,
24 which would be 9:09.

25 Q So that's actually 9:09 in the morning, what we're

Jon Guest
Cross-examination by Mr. Snyder

1 seeing on the body-cam videos --

2 A Correct.

3 Q Pictures.

4 A Yes.

5 Q And that says 1309 military time. It's four hours. I
6 guess it's based off U.T.C.

7 A Yes.

8 Q Whatever time.

9 A Greenwich time, whatever they want to call it. But,
10 yes, it's four hours ahead of real time.

11 Q So that's actually 9:09 in the morning.

12 A That's correct.

13 Q Okay.

14 A Five hours during the summer, but during November it
15 would have been four.

16 Q Four during the winter and five during the summer.

17 A During daylight savings time, correct.

18 Q Now, you'd talked to him -- this was the day this
19 occurred at the hospital --

20 A Yes.

21 Q -- when you talked to him. About what time was it,
22 late morning, in that area?

23 A Yeah. It wasn't long after the car wreck. I mean,
24 again, when I got to the scene he was being transported to
25 the hospital. I left directly from 85 at Blackstock and

Jon Guest
Cross-examination by Mr. Snyder

1 went to Spartanburg Regional. So probably just after the
2 wreck.

3 Q After you got the statement and made sure he was
4 treated and everything, was he transported to the jail
5 later?

6 A He was.

7 Q And did you sign the actual warrant on him --

8 A Yes.

9 Q -- for armed robbery from that standpoint?

10 A Yes. I did.

11 Q And when you booked him at the jail, obviously, taking
12 pictures and everything at the jail --

13 A Yes.

14 Q -- at that time from there.

15 MR. BARNETTE: One moment, Your Honor, please.

16 (Pause.)

17 Q And all of this occurred in Spartanburg County,
18 correct?

19 A Yes, sir.

20 Q Please answer any questions they may have for you,
21 sir.

22 CROSS-EXAMINATION

23 BY MR. SNYDER

24 Q Investigator Guest, you collected evidence in this
25 case, correct?

Jon Guest
Redirect examination by Mr. Barnette

- 1 A Yes.
- 2 Q Important evidence.
- 3 A Yes.
- 4 Q And you've seen images of the suspect when this all
5 happened, correct?
- 6 A When? Afterwards or --
- 7 Q The whole time. You saw the clothing that the suspect
8 wore during the incident, during the arrest.
- 9 A I'm not sure what timeframe you're talking about.
10 when I talked -- when I interviewed him or now?
- 11 Q when he was arrested.
- 12 A Right.
- 13 Q He had on a leg sleeve.
- 14 A Yes.
- 15 Q That's not in evidence.
- 16 A No. Not to my knowledge.
- 17 Q when he was arrested he had on a certain type of shoe.
18 Those shoes are not in evidence.
- 19 A Not to my knowledge.
- 20 Q when he was arrested he had on shorts with particular
21 markings. Those are not in evidence.
- 22 A Not to my knowledge, correct.
- 23 Q So your involvement with this case was you collected
24 some evidence and you interviewed the suspect at the
25 hospital.

Jon Guest
Redirect examination by Mr. Barnette

1 A Yes. So I collected a -- two shirts that were taken
2 off of him to put a gown on.

3 I believe he was wearing his shorts and socks or shoes
4 or whatever. They didn't take those off of him. I was
5 told my someone who's watching the video, probably my
6 supervisor, hey, he's wearing a green shirt, blue shirt, do
7 they have that at the hospital or is he wearing that. I
8 said yes, I do, and I'll bring them with me.

9 Q wouldn't you agree those are important pieces of
10 evidence?

11 A I think they're all important pieces of evidence
12 but --

13 Q But they're not all in evidence.

14 A Yeah. They're not.

15 Q Thank you.

16 MR. BARNETTE: Yes, sir. Redirect.

17 REDIRECT EXAMINATION

18 BY MR. BARNETTE

19 Q Let's look at what was collected. I know the jury has
20 seen this already. State's Exhibit No. 5. What are these,
21 sir?

22 A Gloves.

23 Q And what color gloves?

24 A Red and black.

25 Q State's Exhibit 2. This is the gun, isn't it?

Jon Guest
Redirect examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q I know they keep saying it's a pellet gun, but can a
3 pellet gun kill somebody?
- 4 A Absolutely.
- 5 Q I mean, if it hits them in the right spot, in the eye
6 or whatever, could it kill them?
- 7 A Yes.
- 8 Q State's Exhibit No. 6. Blue mask.
- 9 A Blue mask.
- 10 Q That was collected, is that right?
- 11 A Yes.
- 12 Q State's Exhibit No. 12. Is that a black cap that was
13 collected?
- 14 A Yes. It is.
- 15 Q And then the shirt, especially the green shirt,
16 State's Exhibit No. 10. Was that one that you collected?
- 17 A Yes, sir.
- 18 Q Showing the jury State's Exhibit 14 and State's
19 Exhibit 15. State's Exhibit 15. Suspect is wearing a
20 black cap, is that right?
- 21 A Yes. He is.
- 22 Q Suspect's wearing a blue mask.
- 23 A Yes. He is.
- 24 Q He's wearing the color of shirt that we have there.
- 25 A Yes. He is.

Jon Guest
Recross-examination by Mr. Snyder

- 1 Q He's also wearing red and black gloves.
- 2 A Yes. He is.
- 3 Q He's also -- have a gun.
- 4 A Yes.
- 5 Q Is it similar to the gun that we have there?
- 6 A Very similar. You can actually almost read
- 7 Draexlmaier in the video on the hat that's on this hat.
- 8 Q Same markings on the hat that was collected at the
- 9 scene.
- 10 A Yes.
- 11 Q Plus, you got a statement from him at the hospital, is
- 12 that right --
- 13 A Yes.
- 14 Q -- after he was Mirandized --
- 15 A Correct.
- 16 Q -- properly? He voluntarily gave you the statement.
- 17 A He did.
- 18 Q Did he admit the armed robbery?
- 19 A Yes.
- 20 Q Did he admit running from police officers?
- 21 A He did.
- 22 Q Did he admit to having the drugs?
- 23 A He did.
- 24 Q Thank you, sir.
- 25 MR. SNYDER: This is in response.

Caroline Dunphy
Direct examination by Mr. Barnette

1 RECROSS-EXAMINATION

2 BY MR. SNYDER

3 Q My client's fingerprints aren't on anything you have
4 over there.

5 A I have no idea.

6 Q Okay. My client's glasses are nowhere, correct?

7 A Not that I'm aware of, no.

8 Q Thank you.

9 MR. BARNETTE: No further questions of this witness,
10 Your Honor.

11 THE COURT: You may step down.

12 MR. BARNETTE: Your Honor, we would like to call
13 Caroline Dunphy to the stand, please.

14 (Jail photograph marked State's Exhibit No. 39 for
15 Identification.)

16 CAROLINE DUNPHY, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. BARNETTE

19 Q If you would, ma'am, please state your full name for
20 the record.

21 A It's Caroline Dunphy.

22 Q Where do you work at, ma'am?

23 A I work at the Spartanburg County Jail.

24 Q And what's your position there, ma'am?

25 A I am court reporter and I work with the records.

Caroline Dunphy
Direct examination by Mr. Barnette

1 Q So you are one of the recorders keepers at the
2 Spartanburg County Jail or Detention Center.

3 A Correct, yes.

4 Q And in this case did we ask you to look at some
5 records involved the defendant, Mr. Wilbanks?

6 A Yes.

7 Q And one of the items -- let me show you State's
8 Exhibit 39. Is that a picture of the defendant when he
9 was --

10 MR. SNYDER: Objection, Judge. I'm going to object to
11 that document even being admitted into evidence, and I
12 think we are past that point.

13 THE COURT: The basis of the objection is what?

14 MR. SNYDER: I think it's unfairly prejudicial to
15 Mr. Wilbanks.

16 THE COURT: Overrule the objection.

17 MR. BARNETTE: Thank you, Your Honor.

18 BY MR. BARNETTE

19 Q Is this a picture when he was booked into the county
20 jail, ma'am?

21 A Yes.

22 Q What time was he booked in the county jail?

23 A He was actually booked in at 3:30, and his picture was
24 taken at 3:35 p.m.

25 Q P.M. And that was on November 9th of 2021?

1 A Yes.

2 Q The same day that he was arrested.

3 A Yes.

4 Q Okay.

5 MR. BARNETTE: Your Honor, I'd like to enter this into
6 evidence and publish it to the jury, Your Honor.

7 MR. SNYDER: Subject to my previous objection.

8 THE COURT: It's admitted over objection.

9 MR. BARNETTE: Thank you, Your Honor.

10 (Jail photograph marked State's Exhibit No. 39.)

11 MR. BARNETTE: May I publish it to the jury?

12 THE COURT: You may.

13 Q Was that the picture that -- of the booking photo when
14 he was booked in the jail on this charge or on these
15 charges --

16 A Yes.

17 Q -- in this case? And he had just been brought from
18 the hospital at that point?

19 A Yes. He was.

20 THE COURT: Turn that T.V. back on.

21 MR. BARNETTE: Yes. I apologize, Your Honor.

22 Q If you would, please answer any questions Mr. Snyder
23 may have for you, ma'am.

24 A Okay.

25 MR. SNYDER: I have no questions.

1 THE COURT: Thank you. You may step down.

2 MR. BARNETTE: We'd ask for the witness to be excused,
3 Your Honor.

4 THE COURT: She may be.

5 (Whereupon, the witness was excused.)

6 MR. BARNETTE: Your Honor, may I have a second just to
7 look through the evidence real quick?

8 THE COURT: Yeah.

9 (Pause.)

10 MR. BARNETTE: Your Honor, the state would rest at
11 this point.

12 THE COURT: All right. Ladies and gentlemen, that is
13 all of the testimony or other evidence to be offered by the
14 state, at least in their case in chief.

15 Before we go further I have got matters I will need to
16 address, and I will do that in your absence. So I will ask
17 you to please go to the jury assembly room. Do not yet
18 discuss the case. It's not concluded. I will bring you
19 back shortly.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: All right. Any motions or other matters
23 to address before we go further?

24 MR. SNYDER: I'd move for a directed verdict in this
25 case due to the inconsistent testimony. I don't believe

1 that the state has proven its case.

2 THE COURT: What inconsistency is there as to a
3 material fact?

4 MR. SNYDER: I heard some inconsistent statements
5 regarding the description of the suspect, and they were
6 eliciting testimony, definitely all over some -- some
7 discovery I have. And it will be -- hopefully it will come
8 out when the defense presents its case.

9 THE COURT: Okay.

10 MR. BARNETTE: Your Honor, I believe there's ample
11 evidence. I think even through Investigator Guest's
12 testimony alone, I think there's plenty of evidence in this
13 case to support the going to the jury on these charges.

14 THE COURT: It's more than sufficient. I'm going to
15 deny your motions for a directed verdict.

16 Have you talked to Mr. Wilbanks about his right to
17 testify or not?

18 MR. SNYDER: We have had that conversation.

19 THE COURT: Do you need to have additional
20 conversation?

21 MR. SNYDER: Yes, sir. And as mentioned, we have --
22 we've reached out to four witnesses. They're all employed
23 by the Spartanburg County sheriff's office. I don't know.
24 They're all under a state subpoena. They should be under
25 our subpoena now. I don't know the status of that. I

1 would ask for a break to inquire.

2 THE COURT: well, who are they?

3 MR. SNYDER: I'm sorry?

4 THE COURT: who are you looking for?

5 MR. SNYDER: Knisley -- Easley?

6 THE COURT: Joshua Christian?

7 MR. BARNETTE: No, Your Honor. He's not under our
8 subpoena. He's on military leave this week. That's the
9 reason I didn't put him on the witness list, because of
10 that.

11 THE COURT: Okay. Is he under subpoena, Mr. Snyder?

12 MR. SNYDER: our investigator is out trying to locate
13 him right now. I guess that --

14 THE COURT: He's on leave, so I doubt if they'll find
15 him.

16 who else?

17 MR. SNYDER: Detective Pretlove.

18 THE COURT: Pretlove. Is he available?

19 MR. BARNETTE: He works at the county jail, Your
20 Honor. I can check and see. He was not under our
21 subpoena. I can see if I can check on him.

22 THE COURT: Yeah. who else?

23 MR. SNYDER: Christian Evangelista.

24 THE COURT: All right.

25 MR. BARNETTE: He's on administrative leave, Your

1 Honor, for an incident up in Landrum from an
2 officer-involved shooting. I don't know if he's available
3 or not, but I can check on that.

4 THE COURT: Okay.

5 MR. SNYDER: And Investigator Powell.

6 MR. BARNETTE: Is that Sarah Powell he's asking for?

7 MR. SNYDER: The canine officer.

8 MR. BARNETTE: She is under subpoena, Your Honor.

9 THE COURT: So she's available?

10 MR. BARNETTE: I didn't know. He didn't -- I don't
11 know if he's contacted these people or not, so I don't know
12 if they're available.

13 THE COURT: well, do y'all think y'all can get that
14 accomplished during the lunch break for those who are
15 available? Excuse me. A short break.

16 MR. BARNETTE: I can check and see, Your Honor.

17 THE COURT: Y'all just check. We're going to take a
18 short break. Y'all check on that.

19 MR. SNYDER: Judge, if I could. Mr. Wilbanks has
20 informed me that he was up all last night with a stomach
21 illness. He informed medical at the jail this morning. He
22 is currently struggling with that illness right now.

23 Due to that fact and the fact that we have to reach
24 out to some potential witnesses, can we break until the
25 morning?

1 THE COURT: No. I'm not going to do that. I'm going
2 to take a break until you find out about the witnesses.

3 MR. SNYDER: Okay.

4 THE COURT: And you can talk to Mr. Wilbanks about his
5 testimony too.

6 MR. SNYDER: Okay.

7 THE COURT: All right. We'll be at ease for 15
8 minutes.

9 (Whereupon, a recess was taken.)

10 THE COURT: All right. Mr. Snyder, you located your
11 witness?

12 MR. SNYDER: I believe Detective Pretlove is on the
13 way here, so we'll be able to proceed when he gets here.

14 THE COURT: Well, I thought he was here.

15 MR. BARNETTE: He's on his way, Your Honor. I know
16 that -- I don't know if the defendant's going to testify or
17 not, so I didn't know.

18 THE COURT: Okay. Well, he's on the way.

19 All right. What about Mr. Wilbanks, Mr. Snyder? Have
20 you talked to him about his decision?

21 MR. SNYDER: I have repeatedly. As I explained, he's
22 gone back and forth. The latest is due to his illness and
23 his condition he would like tonight to think about whether
24 or not he should testify.

25 THE COURT: Well, I'm not going to waste tonight to

1 think about that.

2 MR. SNYDER: I've explained to Mr. Wilbanks the pros
3 and cons of testifying. Now I leave that decision to him.
4 I can't make that decision for him.

5 THE COURT: Well, I understand that.

6 All right. Mr. Wilbanks --

7 THE DEFENDANT: Yes, sir.

8 THE COURT: -- you understand that you are charged
9 with a crime. And when you're charged with a crime you
10 always have an absolute right to remain silent. Nobody can
11 ever require you to make a statement; nobody can ever
12 require you to answer questions; nobody can ever require
13 you to even testify during the trial of your case. That's
14 a decision that you get to make on your own. So you have
15 an absolute right to remain silent if you wish to.

16 At the same time, if you want to testify and provide
17 this jury with information, now is the time for you to do
18 that.

19 And you can call other witnesses without yourself
20 testifying, but if you want to testify and you take the
21 witness stand, you'll have to answer not just your lawyer's
22 questions, but you'll have to answer the prosecutor's
23 questions to the extent that they're relevant even if the
24 responses to those questions might tend to prove you guilty
25 of a crime that the state claims you committed.

1 Do you understand your right to remain silent?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand your right to testify?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand that if you choose not
6 to testify I'll instruct the jury, as I already have, that
7 they may not consider that fact in any way or in the
8 slightest degree against you? They can't allow that fact
9 to enter into their deliberations.

10 At the same time, as I say, if you do testify you've
11 got to answer all of the questions that are asked, even if
12 they might tend to prove you guilty of a crime the state
13 claims you committed.

14 Have you discussed with Mr. Snyder the advantages and
15 disadvantages of testifying, as well as not testifying?

16 THE DEFENDANT: Your Honor, those discussions, just
17 like I voiced concerns before, as the day prolongs he seems
18 to deteriorate.

19 I am convinced he's under the influence of something.
20 That is I been around a lot of people under the influence.
21 I used to be under the influence myself. And he's under
22 the influence of something. I don't know what it is, but
23 it's something, and it disturbs me greatly.

24 I have been up all night, Your Honor, and I let
25 medical know it this morning that I had a bad case of upset

1 stomach. And I have weathered this the best I can.

2 They are witnesses that I do want to call that are the
3 state's witnesses that they're part of the investigation,
4 that being Mr. Mapstone. I wanted Mr. Knisley. But if
5 he's away on military leave, then God bless him. Mr.
6 Pretlove and Evangelista and Powell. And I want their body
7 cam shown in their entirety.

8 I have those body cams, and the state quickly zipped
9 through those body cams, but I would like the right. It
10 goes quickly. If we could slow it down to 50 percent speed
11 so they could actually see that Pretlove take that taser
12 after Harakas beat me with his closed fist --

13 THE COURT: Mr. Pretlove is going to come. He's on
14 his way. He's going to testify.

15 THE DEFENDANT: I understand. Yes, sir. And that's
16 all I'm asking because you said I had a right to call
17 witnesses.

18 THE COURT: You do.

19 THE DEFENDANT: If we could do that, please, sir, and
20 if there's some kind of mercy or consideration about my
21 condition, I been mustering through this thing. I'm not
22 trying to delay anything. I'm grateful that we are having
23 this, but by condition, my upset stomach and no sleep, that
24 was out of my control. But at this time I'll make the
25 decision not to testify, Your Honor, to answer your

1 question.

2 THE COURT: Well, my question was have you and Mr.
3 Snyder discussed the advantages and disadvantages of your
4 testifying, as well as not testifying.

5 THE DEFENDANT: Again, our conversation and dialect
6 with one another is very contentious.

7 THE COURT: So you have discussed it or you have not
8 discussed it?

9 THE DEFENDANT: We've made attempts at it, but it has
10 not had any success but...

11 THE COURT: All right. Well, I'm going to let y'all
12 do that right now.

13 So I want you to go back into the room, and y'all
14 discuss the advantages and disadvantages of testifying, as
15 well as not testifying. And that will include whether or
16 not you have any previous history that might could be used
17 for impeachment purposes if you did take the witness stand
18 and testify. So you will need to discuss that with
19 Mr. Snyder too. And then by the time y'all get through
20 maybe Officer Pretlove will be here.

21 MR. BARNETTE: Your Honor, Officer Mapstone is here
22 too. He mentioned him. So he's here also.

23 THE COURT: And Officer Mapstone is here. So you can
24 call Officer Mapstone.

25 So y'all go discuss the advantages and disadvantages

1 of testifying, as well as not testifying, and we'll
2 continue.

3 THE DEFENDANT: Your Honor, if it's all right, I'll
4 make the decision now not to testify.

5 THE COURT: You can make the decision any time you
6 want to, but I've just got to give you an opportunity to
7 discuss it with Mr. Snyder if you need to.

8 THE DEFENDANT: I don't need to, sir. It's just --

9 THE COURT: You don't need to?

10 THE DEFENDANT: No. Look at him. I mean, I can't
11 discuss anything with him.

12 THE COURT: Well, you keep pointing to him and saying
13 that he appears to you to be under the influence. He's
14 been with me a long time and I've been around him a long
15 time, and I don't see it.

16 THE DEFENDANT: I could be mistaken, sir.

17 THE COURT: I don't see that. So maybe you see
18 something I don't see, but/or at least I don't notice that
19 much difference, or any difference for that matter, in my
20 experience.

21 THE DEFENDANT: I understand, sir. What would you
22 like for me to do?

23 THE COURT: Tell me if you need to talk to Mr. Snyder
24 any more about your decision to testify or not or if you
25 want to tell me now.

1 THE DEFENDANT: I'm good not testifying, sir.

2 THE COURT: All right. So you understand you have the
3 right.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has anybody forced you into that right --
6 excuse me -- forced you into that decision not to testify?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Has anybody even suggested to you that you
9 ought to make that decision?

10 THE DEFENDANT: I believe Mr. Snyder did mention --

11 THE COURT: So he has an opinion.

12 THE DEFENDANT: -- that he don't want me to testify,
13 yeah, and that's his opinion about it.

14 THE COURT: So he has an opinion about it.

15 THE DEFENDANT: He does have an opinion, sir, yes.

16 THE COURT: And he shared that opinion with you.

17 THE DEFENDANT: Right. No strategy but an opinion.

18 THE COURT: All right. And he shared that opinion
19 with you about testifying or not?

20 THE DEFENDANT: He did, Your Honor.

21 THE COURT: All right. Well, do you understand that
22 he might have an opinion but that that's not binding upon
23 you? You get to make your own decision about that.

24 THE DEFENDANT: I understand, Your Honor, and I
25 understand the risk.

1 THE COURT: All right. And so you do understand the
2 advantages and disadvantages?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And you've reached a decision?

5 THE DEFENDANT: To not testify, sir, yes, sir.

6 THE COURT: And is that a decision that you made of
7 your own free will and accord?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Anybody forced you into it?

10 THE DEFENDANT: No, sir.

11 THE COURT: You made that decision after having plenty
12 of time to reflect upon it?

13 THE DEFENDANT: Plenty of time in the sense of just
14 this afternoon, but it's never been discussed prior to this
15 afternoon, never, in 19 months.

16 THE COURT: Okay. Well, all right. Well,
17 Mr. Wilbanks, are you telling me that in 19 months you
18 never knew that you could testify or not at the trial?

19 THE DEFENDANT: I did, Your Honor, but I was also
20 waiting for a strategy from my attorney, which I've never
21 gotten.

22 THE COURT: Okay.

23 THE DEFENDANT: But I am -- I'm satisfied that it's in
24 my best interest not to testify. That's of my own free
25 will and my own accord. And that is his opinion, and I'm

1 going to go with his opinion because he is the one
2 representing me, and I do realize that. And I'm going
3 to -- if that's sufficient for you, Your Honor, I'm good
4 with that.

5 THE COURT: It is, and so it is your opinion too.

6 THE DEFENDANT: As of right now, it has to be. It's
7 my decision, yes, sir.

8 THE COURT: Okay.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: That's good. Thank you.

11 THE DEFENDANT: Yes, sir. Thank you.

12 THE COURT: All right. Now, Mr. Mapstone is here and
13 Pretlove is on the way.

14 MR. BARNETTE: Yes, sir. I do have -- I do have
15 Mapstone's body-cam video footage. He does not -- he
16 shared a stick with me. The other two will have to be --
17 Pretlove's will have to be copied. He's got a stick. I
18 don't have a video of his. I provided it to him. I didn't
19 make one for this trial though.

20 THE COURT: I understand.

21 MR. BARNETTE: I can go ahead and try to copy that
22 real quick, Judge.

23 THE COURT: Okay.

24 MR. BARNETTE: I do have Mapstone's here, so.

25 THE COURT: All right. You're making a copy of

Dan Pretlove
Direct examination by Mr. Snyder

1 Pretlove's?

2 MR. BARNETTE: Pretlove.

3 (Pause.)

4 (D.V.D. marked Defendant's Exhibits No. 1 and 2 for
5 Identification.)

6 THE COURT: Okay. Can we continue now?

7 MR. BARNETTE: Your Honor, I've almost got the other
8 part copied. As soon as I get this, we'll be ready for the
9 jury.

10 (Pause.)

11 THE COURT: All right. We ready for the jury?

12 MR. BARNETTE: The state's ready, Your Honor.

13 THE COURT: All right. Bring them in.

14 (The following takes place in the presence of the
15 jury.)

16 THE COURT: Ladies and gentlemen, I apologize for the
17 delay. We've had some technical difficulty or issues. I
18 think we've got those resolved. They're going to be
19 playing some other videos. So I think those have been
20 resolved now. Hopefully they have.

21 As you know, the state has rested in their
22 presentation. So we're now going to proceed with any to be
23 offered by the defendant.

24 Mr. Snyder.

25 MR. SNYDER: Thank you, Judge. At this time we call

Dan Pretlove
Direct examination by Mr. Snyder

1 Detective Pretlove to the witness stand.

2 DANIEL PRETLOVE, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. SNYDER

5 Q Good afternoon.

6 A Good afternoon.

7 Q Please state your name for the record.

8 A Corporal Dan Pretlove.

9 Q And who do you work for?

10 A Spartanburg County Sheriff's Office.

11 Q Were you working in the date of November 9th of 2021?

12 A I was.

13 Q And did you happen to be notified of a suspected armed
14 robbery that happened near Hearon Circle?

15 A I was aware of a vehicle pursuit with an armed robbery
16 suspect, yes, sir.

17 Q And did you engage that vehicle?

18 A I myself was not engaged in the actual vehicle
19 pursuit.

20 Q Okay. At some point did you come into contact with
21 that vehicle?

22 A With the vehicle itself?

23 Q With -- with the occupant of that vehicle.

24 A I did have an interaction with the driver of that
25 vehicle.

Dan Pretlove
Direct examination by Mr. Snyder

1 Q Okay. And as a standard procedure, you were wearing
2 your county-issued, body-worn camera?

3 A That's correct.

4 Q And you were able to catch most of the events that
5 took place in your presence?

6 A That's correct.

7 Q And in anticipation for trial did you have an
8 opportunity to review that video?

9 A That's correct. I did.

10 Q And is it a pretty fair and accurate description or
11 footage of what happened during your involvement in it?

12 A Well, if you're going to show it in court, you'll see
13 from the perspective of the camera that's mounted on my
14 chest, what it saw while I was on scene.

15 Q Okay. But, again, it's pretty accurate. It's
16 accurate.

17 A It's video evidence, yes, sir.

18 Q Exactly what happened.

19 MR. SNYDER: Judge, at this time I'd like to introduce
20 State's -- or Defense Exhibit No. 1.

21 MR. BARNETTE: No objection, Your Honor.

22 THE COURT: All right.

23 (D.V.D. marked Defendant's Exhibit No. 1.)

24 MR. SNYDER: Judge, permission to publish it for the
25 jury.

Dan Pretlove
Cross-examination by Mr. Barnette

1 THE COURT: All right.

2 (Whereupon, Defendant's Exhibit No. 1 was played for
3 the jury.)

4 Q Detective Pretlove, very quickly. You work with
5 Detective Powell, correct?

6 A Deputy Powell?

7 Q Yes. I'm sorry.

8 A Yes, sir.

9 Q Okay. She -- she was there that day?

10 A She was on scene, yes, I believe.

11 Q Okay. And does she also have -- is she also equipped
12 with a body-worn camera?

13 A I'm not sure if she has one or not.

14 Q If she was wearing a body-worn camera would it reflect
15 what happened that day?

16 A From her perspective, yes, sir.

17 MR. SNYDER: At this time I'd like to introduce
18 Defense Exhibit No. 2, the body-worn camera, for Deputy
19 Powell. I know she's not here, so I don't know.

20 MR. BARNETTE: I agreed to do it, Your Honor,
21 because -- introduced through them. It is body cam.

22 THE COURT: All right. It's admitted.

23 (D.V.D. marked Defendant's Exhibit No. 2.)

24 MR. SNYDER: At this time can counsel publish it?

25 THE COURT: You may.

Dan Pretlove
Cross-examination by Mr. Barnette

1 (Whereupon, Defendant's Exhibit No. 2 was played for
2 the jury.)

3 Q Lieutenant Pretlove, I know that was not your camera,
4 but that's -- that's what happened, correct?

5 A Correct.

6 Q Okay. Thank you. No more questions.

7 MR. BARNETTE: May it please the Court, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. BARNETTE

10 Q Sir, when you walked up was this man resisting arrest?

11 A Yes, sir. He was.

12 Q And do you see the man in the courtroom today that was
13 resisting arrest?

14 A Yes, sir.

15 Q Could you identify him for us, please?

16 A It's the man in the blue shirt sitting at the table.

17 Q Without a coat?

18 A Yes, sir.

19 MR. BARNETTE: Your Honor, I would like the record to
20 reflect that he's identified the defendant.

21 THE COURT: It will.

22 BY MR. BARNETTE

23 Q Obviously, once he was -- he complied, obviously, and
24 he was tased, was there any problems after that?

25 A Once he was in care and custody, no, sir.

Dan Pretlove
Cross-examination by Mr. Barnette

- 1 Q And actually we saw them put the handcuffs on him
2 after they tase him.
- 3 A Yes, sir.
- 4 Q He wasn't complying, was he?
- 5 A No, sir. Not prior to being handcuffed.
- 6 Q And how many officers was involved in trying to
7 handcuff him?
- 8 A I believe there was at least three, possibly four.
- 9 Q Through there. And he was still resisting at that
10 point.
- 11 A That's correct.
- 12 Q And this was an armed robbery suspect.
- 13 A Yes, sir.
- 14 Q From there. Where is your radio mic at?
- 15 A It's right here.
- 16 Q For example, when Officer Powell was reaching across
17 her thing, was she making radio contact at that point?
- 18 A Yes, sir. I noticed that during the video, and it
19 looked like she was waiting for a -- the code that she used
20 was 10-95, and I know she had her hand across there waiting
21 to let everybody else know that he was actually in custody.
- 22 Q And what does 10-95 mean?
- 23 A It means in custody, secured.
- 24 Q So she's holding it there, and that's the reason why
25 we don't see some of it. And, obviously, didn't hear the

Dan Pretlove
Redirect examination by Mr. Snyder

1 mic at that time.

2 A Yes, sir.

3 Q From that standpoint. He was led by, I guess by,
4 officers away, no force or anything like that.

5 A Yeah. I believe they assisted him standing up and
6 then walked him and put him in the vehicle.

7 Q Did there appear to be glasses there on the front of
8 his shirt also?

9 A I don't recall.

10 Q I know a body cam would show that from that
11 standpoint. But, obviously, he was wearing what he was
12 wearing when you saw him on the body cam.

13 A Yes, sir.

14 Q From there.

15 And, obviously, in a situation when you have a felony
16 situation, you ask people to comply and get down on the
17 ground to try to make it as safe as possible.

18 A Yes, sir.

19 Q And if they don't comply, what do you do?

20 A Got to get them in handcuffs, which is verbal commands
21 until they do comply.

22 MR. BARNETTE: One moment, Your Honor, please.

23 (Pause.)

24 Q Thank you, sir. Please answer any other questions
25 they have for you.

Dan Pretlove
Redirect examination by Mr. Snyder

1 REDIRECT EXAMINATION

2 BY MR. SNYDER

3 Q To secure a suspect in handcuffs is it appropriate to
4 hit a suspect in the head with the butt of a taser?

5 A I think there's qualifications of that. I'm not aware
6 of the suspect being hit in the head with a taser.

7 Q Thank you.

8 MR. BARNETTE: No further questions of this witness.

9 THE COURT: You may step down. You may also be
10 excused. Thank you.

11 MR. BARNETTE: Thank you, Your Honor.

12 (Whereupon, the witness was excused.)

13 MR. SNYDER: At this time the state rests, or defense
14 rests.

15 THE COURT: Any reply?

16 MR. BARNETTE: No, sir.

17 THE COURT: All right. That is all of the testimony
18 or evidence to be offered in the case.

19 What remains to be done are the lawyers' final
20 summations, after which I'll instruct you on the law, and
21 then you'll begin deliberations. And because of the hour
22 we can't get that done this afternoon. So we'll start with
23 that in the morning at 9:30.

24 Keep in mind during the overnight recess no research,
25 no investigation, no discussions of any kind.

Dan Pretlove
Redirect examination by Mr. Snyder

1 Do have a good evening. Please report to your jury
2 room in the morning at 9:30 at which time we will conclude.
3 Have a good evening.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: All right. Any motions or other matters
7 to address?

8 MR. SNYDER: Just quickly. I renew my motion for a
9 directed verdict based on the same reasoning I gave
10 earlier. Thank you.

11 THE COURT: All right. That motion is denied based
12 upon the same reason.

13 What about instruction requests? Do y'all have any?

14 MR. BARNETTE: Your Honor, I believe your standard
15 charge will be fine with the state.

16 MR. SNYDER: I think it should be fine. We just may
17 review in the morning for instruction, for the jury's
18 instruction.

19 THE COURT: You mean review it when I give it to them?

20 MR. SNYDER: Well, in advance of that, but if that's
21 how Your Honor wants to do it.

22 THE COURT: Well, I'll accept any requests that you
23 have. Do you have any requests?

24 MR. SNYDER: Well, I'll just -- I think it should be
25 fine. I was just going -- may review what you're going to

1 instruct the jury.

2 THE COURT: Instruct them on the law that's applicable
3 in this case, but if you have any specific requests that
4 you think are peculiar to the case, I'll be happy to
5 consider them.

6 MR. SNYDER: I will look into it.

7 THE COURT: All right. Anything else?

8 All right. Court is in recess until 9:30 in the
9 morning.

10 END OF PROCEEDINGS JUNE 13, 2023

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1 (Proceedings June 14, 2023)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Everyone is present.

5 Any matters to be addressed before the jury is brought
6 in?

7 MR. BARNETTE: Yes, sir. I just wanted to put one
8 item on the record, Your Honor, prior to.

9 We had a bench conference when Investigator Kyle was
10 testifying in this case, Your Honor, and the issue came up
11 about the red Durango. And I know we've not said how it
12 was a part of the BOLO and everything, but it was for a
13 previous armed robbery, is the reason why we did not
14 mention it during the testimony in the trial.

15 And I don't know if Mr. Snyder is going to mention
16 that or whatever from that standpoint, but, obviously, I'll
17 be objecting because we would have introduced it but we
18 thought it was more prejudicial than probative, obviously.
19 That's the reason why it wasn't mentioned in the testimony,
20 how they got the BOLO for it, the red Durango.

21 THE COURT: All right.

22 MR. SNYDER: I'm not referencing the car during my
23 closing.

24 THE COURT: Okay. Mr. Barnette, tell me exactly what
25 you're concerned that Mr. Snyder might have thought about

1 going into.

2 MR. BARNETTE: Well, what happened is, obviously, the
3 police decided the BOBO -- the BOLO -- what they did,
4 actually they developed the suspect from a previous armed
5 robbery.

6 A red Durango had been used, very similar, Asian Spa
7 robbery that happened a couple of weeks prior. They felt
8 like it could be the same armed robbery suspect. So they
9 sent out a BOLO.

10 THE COURT: Which is the event that the defendant
11 admitted to having committed.

12 MR. BARNETTE: That's correct.

13 On State's Exhibit 1 where the -- well, actually it's
14 Court's Exhibit 1. We didn't introduce it in the trial,
15 but, obviously, I know you've heard that in the prior
16 Jackson vs. Denno, which he did admit to it in that case.
17 That's where they developed him based off that information
18 for the prior armed robbery.

19 We did not mention it in the actual trial. I just
20 don't want it to be a confusion standpoint if it's
21 mentioned in closing arguments, because, obviously, we
22 didn't introduce it in the testimony.

23 The reason why we didn't, we felt like it might be too
24 prejudicial than probative in that situation under Rule
25 403.

1 THE COURT: well, I don't think there's any doubt
2 about that likely.

3 But, anyway, Mr. Snyder, you don't intend to get into
4 the issue about why they happened to stop the red Durango,
5 are you?

6 MR. SNYDER: No, sir. I'm not referencing the car in
7 my closing argument.

8 THE COURT: Or anything related to it.

9 MR. SNYDER: No, sir.

10 THE COURT: Okay. All right. Anything else we need
11 to address?

12 MR. SNYDER: Yes, sir.

13 There has been some testimony that the gun used was
14 not a real gun, and therefore the defendant would request a
15 charge related to common-law robbery.

16 THE COURT: Mr. Barnette.

17 MR. BARNETTE: Your Honor, I believe it is a real gun
18 from that standpoint. It could have been used. There's
19 testimony in the record showing that.

20 THE COURT: I don't know why anybody testified it
21 wasn't a real gun to tell you the truth.

22 MR. BARNETTE: I understand. well, the other thing
23 too, there's no question it's a representation of a gun.

24 THE COURT: Oh, no doubt about that.

25 MR. BARNETTE: From there. And I don't think the

Closing arguments

1 evidence -- there has not been any testimony provided that
2 makes it for a common-law robbery in my opinion. So
3 he's -- I don't think he's entitled to a lesser included
4 charge in this situation.

5 THE COURT: Mr. Snyder.

6 MR. SNYDER: There has -- there was testimony to the
7 effect that it was not a real gun, and therefore we renew
8 our request for a common-law charge.

9 The issue as to whether or not it was real is a
10 question of fact, and I think it should be up to the jury
11 to decide.

12 THE COURT: Well, that determination of fact would be
13 for the jury, but that's not what is required under the
14 armed robbery statute.

15 The armed robbery statute requires that it either be
16 real or that the defendant, while alleging either by action
17 or words that he was armed while using a representation of
18 a deadly weapon.

19 And as we've discussed, I don't know why it was
20 testified that that was not a real gun. It wasn't a real
21 9mm, but it was certainly a real gun. It's a pellet
22 pistol. You can kill somebody with it. I shoot squirrels
23 all of the time with it.

24 Nevertheless, it is a representation of a deadly
25 weapon for sure, because, as the testimony was, it's made

Closing arguments

1 to look like a Smith and Wesson 9mm weapon.

2 So I'm going to decline your request to charge
3 common-law robbery, but I'll note your exception to it.

4 Anything else?

5 MR. SNYDER: No, sir.

6 THE COURT: All right. Are we ready for the jury now?

7 MR. BARNETTE: The state's ready, Your Honor.

8 MR. SNYDER: We're ready.

9 THE COURT: Okay. Bring them in.

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: Good morning, ladies and gentlemen.

13 As you know, when we recessed yesterday all the
14 evidence had been received, and therefore what remains to
15 be done are the lawyers' final summations, after which I'll
16 instruct you on the law, and then you'll begin with your
17 deliberations in the case.

18 So I would ask that you please give the lawyers your
19 attention now as they give you their final summations.

20 Mr. Barnette.

21 MR. BARNETTE: May it please the Court, Your Honor.

22 Ladies and gentlemen of the jury, Madam Forelady, you
23 remember I told you we're going back to November 9th of
24 2021. That day Ms. Patel went in at 6:30 in the morning
25 like every other person does.

Closing arguments

1 In a little bit more than 30 minutes she had an event
2 in her life that she'll never forget. You've got the video
3 tape. You'll have the pictures. You saw what she saw; you
4 heard what she saw, the man that came in that day. Like I
5 said, you've got several pictures. No question it being
6 armed robbery in this case.

7 Look at all of the pieces that have been brought to
8 you. Here is a man comes in, has a black ball cap with
9 lettering on the front, typing on the top of it, a blue
10 mask, red and black gloves, a greenish-bluish type shirt.

11 Like with Investigator Guest -- and you'll have all of
12 this with you back there. You'll have the hat; you'll have
13 the gloves; you'll have the mask; you'll have the gun;
14 you'll have the shirt.

15 Plus, on top of that you'll have pictures of the
16 money. You remember how much Ms. Patel said was stolen --
17 \$300. And look at the denominations of these. These are
18 not your common denominations. A lot of dollar bills,
19 fives, tens, maybe one or two 20s, typical of denominations
20 you get out of the cash register.

21 where does all of these items come from? That man
22 right there. Y'all have seen the videos. You've seen the
23 cap, the gloves found. You'll have these pictures back
24 with you -- where the mask was found, where the cap was
25 found, where the gloves was found, where the gun was found.

Closing arguments

1 All in the truck driven by that man right there.

2 On top of that he had drugs with him that day. Where
3 was that found? That was found in the black bag right
4 along where the gun was. Actually, you heard the chemist
5 testify about that, implausible, the two substances he has.

6 You've got the body-cam videos. I can show you these
7 to you again, but I know you've seen them, where they
8 chase.

9 He actually breaks away from one deputy. They pick up
10 the chase again. You've got to remember this is an armed
11 robbery suspect.

12 He is going flying down side roads, the interstate and
13 everything. He goes through a 4-lane interstate on
14 Business I-85. He rips the cables out, and you've got
15 pictures of those in the videos that you can see. In the
16 videos the defense introduced it shows how the cables was
17 torn. You see the damage done, how he's done his wheels
18 and everything.

19 And on top of all of this, ladies and gentlemen, you
20 have from his own words where he admits that he did the
21 armed robbery, he admits that he left law enforcement, and
22 he admits the drugs was his.

23 The judge will talk to you, and talk to you about
24 reasonable doubt. If the evidence in this case leaves you
25 firmly convinced of his guilt, you must find him guilty.

Closing arguments

1 I submit to you all of this evidence, all the evidence
2 that's been produced in this case, leads to one conclusion,
3 that Timothy Wilbanks did this armed robbery, did the
4 failure to stop. He resisted officers. And, like I said,
5 you remember what Nick Harakas' statement was. He said,
6 yeah, he was saying that. But look at his actions. He was
7 fighting four officers at the time and would not comply.

8 And, like I said, they had no idea where the gun was
9 at that time. So they had to use the actions they did to
10 subdue him. And of course you found what they found later
11 from that standpoint.

12 Ms. Patel had the worst day of her life that morning.
13 Fortunately, nobody else was on I-85. It could have been
14 the worst day of their lives. Thank goodness nobody was
15 there on the interstate when he went across that
16 interstate. Thank goodness these officers took him in
17 custody to keep somebody from having a horrible day.

18 Mr. Wilbanks. He created all of this. He created the
19 situation that he was placed into by his actions.

20 What I'd like for you to do, ladies and gentlemen, is
21 hold him responsible for his actions that day. Like we
22 talked in the opening when I was speaking to you, I'm
23 asking you to return guilty on all verdicts. He's guilty
24 of the armed robbery; he is guilty of failure to stop,
25 guilty of resisting arrest and guilty of the drug charges

Closing arguments

1 in this case.

2 Thank y'all very much for your time. Thank y'all.

3 MR. SNYDER: Good morning.

4 I told you at the beginning of this trial that there'd
5 be a lot of issues, you would have a lot of questions. I'm
6 sure you have a lot of questions now.

7 The first question is who went into that store. The
8 individual's covered. Ms. Patel said she couldn't see his
9 eyes, she couldn't see his hair.

10 Again, the person, most of the identifying
11 characteristics of a person were covered and concealed, so
12 the first question would be who actually went into that
13 store.

14 If you determine the person that did go to that store
15 was Mr. Wilbanks, the next question you need to consider is
16 what did he do.

17 You heard testimony from Officer Dail that the gun
18 used was not a real gun. The solicitor said this was
19 Ms. Patel's worst day ever. She's not here. Take that
20 into consideration when you're going back to discuss this
21 case.

22 MR. BARNETTE: Objection, Your Honor. That's improper
23 argument.

24 THE COURT: Sustained.

25 MR. SNYDER: You also heard from Deputy Harakas.

Jury charge

1 Mr. Wilbanks got out of the car with his hands up. He was
2 then tackled to the ground. Deputy Harakas punched him in
3 the face three times, tased him while he was partially
4 handcuffed.

5 This must stop. The not-guilty verdict would send a
6 message to the sheriff's department that this is
7 unacceptable. You should have a voice in the process.

8 MR. BARNETTE: Objection, Your Honor. Improper
9 argument.

10 THE COURT: Sustained.

11 MR. SNYDER: Please consider the testimony. You have
12 the videos, body cam. You can watch it in slow motion if
13 you'd like. After reviewing all of that please take it all
14 into consideration when rendering your verdict, and I ask
15 y'all to find Mr. Wilbanks not guilty. Thank you.

16 MR. BARNETTE: May it please the Court, Your Honor.

17 Talking about the video tapes, I know y'all seen them
18 all. Even the two that's introduced by the defense is
19 consistent with everything.

20 You saw how he was treated afterwards. He was picked
21 up. He walked across. He actually still had his glasses
22 on, which he has his glasses when he did the robbery.
23 That's another piece of evidence from that standpoint.

24 There's no question he did this. All of the pieces
25 are there in the puzzle.

Jury charge

1 One thing I'd like to show you real quick. I submit
2 to you there's probably more pieces of the puzzle than
3 this, but all you need is the piece that shows what this
4 is. And y'all can see this is the puzzle even when the
5 pieces are missing.

6 I submit to you that every piece is almost in this
7 puzzle. And this would be enough here to obviously prove
8 guilt beyond a reasonable doubt to show what it is.

9 There's no question on what this is, and the man that
10 did this is sitting right over there, the man that created
11 all of this.

12 Mr. Snyder made the statement he had his worst day.
13 Well, he created all of this. He created the worst day for
14 Ms. Patel, the worst day for these officers. Believe me.
15 These officers did not want to be involved in this. They
16 didn't have a choice. They did their jobs in bringing him
17 into court today to be tried in front of y'all today.

18 Again, thank y'all for your time, and I still ask you
19 for guilty verdicts because it's been proven beyond a
20 reasonable doubt. This is the kind of proof that will
21 leave you firmly convinced that he did this crime.

22 Thank y'all very much.

23 THE COURT: Madam forelady and ladies and gentlemen of
24 the jury, you of course have now heard and seen all the
25 evidence, as well as the final summations of the lawyers,

Jury charge

1 and so now I'm going to instruct you on the law that's
2 applicable in the case.

3 You'll then be asked to go back to begin with your
4 deliberations, and through that process and through the
5 exercise of good judgment and common sense conscientiously
6 applied to the testimony and evidence received, you're
7 going to be called upon to determine the facts as they
8 relate to the matter.

9 Upon deciding the facts, you'll apply the law that I
10 have provided, and you will determine whether or not the
11 defendant has been proven guilty of a crime for which he
12 stands charged beyond a reasonable doubt.

13 It is your exclusive duty to determine what the facts
14 are. You do that through your own common sense examination
15 and evaluation of all of the testimony and other evidence
16 received during the course of the trial.

17 You 12 jurors alone will decide what weight, value and
18 effect to give to any particular witness' testimony or
19 other evidence in the case. Your sole objective, of
20 course, is to simply render a fair and impartial decision
21 based upon the evidence presented and the law that's
22 applicable as I will have provided it to you.

23 Now, in this case, as are well aware, the defendant is
24 charged with five separate and distinct offenses that are
25 alleged to have arisen out of one particular event or a

Jury charge

1 course of events which the state alleges occurred on
2 November 9 of 2021.

3 But as I told you, you're going to be considering five
4 separate charges that are contained in separate
5 indictments, and you'll determine the facts as they relate
6 to each of those separate charges based upon the evidence
7 presented. You'll apply the law as it relates to that
8 particular charge in order to arrive at a verdict.

9 As I've also told you, the indictments are not
10 evidence in the case. They're not proof of anything. They
11 don't establish anything. But they will be in the jury
12 room, but they are there for one purpose, and one purpose
13 only, and that is they will serve as the verdict forms.

14 And so, Madam Forelady, it will be on the back of each
15 indictment that you will be indicating the jury's unanimous
16 decision as it relates to the charge contained in that
17 indictment. And on the back in the lower left-hand corner
18 you'll see the word verdict, and it's beneath that word
19 that you're going to be indicating the jury's unanimous
20 decision. And you'll be signing your name as the
21 foreperson. You're the only juror that needs to sign the
22 verdict form.

23 But the charges that have been brought against
24 Mr. Wilbanks are armed robbery, failure to stop when
25 signaled to do so by a law enforcement officer using a blue

Jury charge

1 right or siren or both, resisting arrest, possession with
2 intent to distribute methamphetamine and possession with
3 intent to distribute Clonazepam.

4 Now, as you have been told, as to each of those
5 charges the defendant has entered a plea of not guilty.
6 And as I previously told you, that plea of not guilty has
7 placed upon the state the burden of proving the allegations
8 made by way of each of those indictments, the burden of
9 proving each of the essential elements that make up the
10 charge that's contained in the separate indictments, and
11 therefore the burden is upon the state to establish the
12 defendant's guilt as to a charge contained in each of the
13 separate indictments beyond a reasonable doubt before you
14 could return a verdict of guilty as it relates to that
15 particular charge.

16 The burden is never upon a defendant or a person
17 accused of a crime to prove that he or she is not guilty or
18 to prove that he or she is innocent because in some cases
19 that might not be possible.

20 The burden is always upon the state because they made
21 the accusation and they brought the charge to prove the
22 defendant's guilt beyond a reasonable doubt.

23 You are instructed that it is a vital, important and
24 cardinal rule of law that every defendant in a criminal
25 trial, no matter how great or serious the offense might be

Jury charge

1 for which that person stands charged, that person shall
2 always be presumed innocent of that charge.

3 That presumption of innocence remains with any
4 defendant, as it does with this defendant, from the time
5 that he's placed under arrest, throughout the course of the
6 criminal process and even throughout the course of the
7 actual trial in the case.

8 That presumption of innocence will be with
9 Mr. Wilbanks even as you go back to begin with your
10 deliberations after I've provided you with this
11 instruction. And that presumption of innocence will be
12 with him in that jury room, and it'll be with him forever
13 unless you 12 jurors determine that he's no longer entitled
14 to that presumption of innocence as it relates to a
15 particular charge.

16 In other words, after you have carefully considered
17 all the evidence presented during the trial of the case as
18 it relates to the separate charges, and after considering
19 that evidence you have been able to determine the material
20 facts as they relate to a particular charge, and after
21 deciding those facts you apply the law as it relates to
22 that charge as I provided it to you, if you 12 jurors
23 unanimously determine that the defendant has been proven
24 guilty of a particular charge beyond a reasonable doubt,
25 then it would be your duty to find him guilty of that

Jury charge

1 charge.

2 And, on the other hand, if you find that there is a
3 reasonable doubt as to whether or not the defendant has
4 been proven guilty of a particular charge, then it would be
5 your duty and obligation to return a verdict of not guilty
6 as it relates to that particular charge.

7 Now, because you are the judges of the facts, you are
8 therefore necessarily the sole judges of the credibility
9 and the believability of each witness that has testified
10 during the course of this trial.

11 You 12 jurors alone will decide what weight, value and
12 effect to give to any particular witness' testimony or
13 other evidence in the case.

14 Again, your sole objective is to simply render a fair
15 and impartial decision based upon the evidence and the
16 applicable law. But there are several factors which you
17 should take into account in arriving at your assessment as
18 to a witness' credibility, and I'm going to list those
19 factors for you.

20 You should consider the demeanor of the witness. That
21 is how the witness appeared to you as that witness
22 testified from that witness stand. Was the witness
23 straightforward in responding to questions, or was the
24 witness hesitant or evasive in responding to questions that
25 were posed of that witness.

Jury charge

1 Simply put, did the witness appear to you to be
2 telling the truth and to have knowledge of the facts to
3 which that witness has testified.

4 You should consider whether or not the testimony of a
5 witness is consistent, or is it inconsistent with that
6 witness' testimony provided during the trial of this case
7 or whether it's consistent or inconsistent with statements
8 made by that same witness, whether in court or outside of
9 court.

10 You should also consider whether or not the testimony
11 of a witness is consistent, or is it inconsistent with that
12 other witnesses' testimony or other evidence received
13 during the course of the trial.

14 You should also consider how the witness came to know
15 the facts to which that witness has testified. In other
16 words, what was that particular witness' opportunity and
17 ability to perceive the existence of those facts to which
18 that witness has testified by having previously used his or
19 her senses. And then what is the ability of that
20 particular witness to be able to come into court and to
21 accurately recollect to you as what they have previously
22 perceived.

23 You should also consider any bias or prejudice or
24 interest that a witness might have with respect to the
25 case. In other words, do you find some reason that a

Jury charge

1 particular witness would come into court and would testify
2 one way or another to help or hurt one side or the other.
3 And you may consider any interest that a witness might have
4 in the outcome of the case if you determine that a witness
5 does have such an interest and you find that that interest
6 would bear upon that particular witness' credibility.

7 You should also consider whether or not the testimony
8 of a witness was strengthened, or was it weakened by other
9 testimony or other evidence received during the course of
10 the trial.

11 Now, you as the judges of the facts and you as the
12 judges of the credibility of each witness that has
13 testified are permitted to believe as much or as little of
14 what a witness has testified to as you deem is appropriate.

15 And so, as I previously told you, you can believe
16 everything that a witness testified to; you may choose to
17 believe none of it. You may believe one portion of a
18 witness' testimony and reject some other portion of that
19 same witness' testimony.

20 In a given case you could believe one witness as
21 opposed to several, or several as opposed to one. But
22 whatever your good judgment and common sense tells you is
23 the most credible and believable testimony and evidence is
24 the testimony that you should accept, and you should reject
25 any testimony or other evidence that you find not to be

Jury charge

1 credible or believable.

2 Again, your sole objective is to simply render a fair
3 and impartial decision based upon the evidence presented
4 and the law that's applicable.

5 Now, the same law that provides that you are the
6 judges of the facts also provides that I am the judge of
7 the law.

8 That simply means that nobody's going to tell you how
9 to arrive at your determination of fact in this case. You
10 do that, as I've already stated, through the exercise of
11 good judgment and common sense conscientiously applied to
12 the testimony and evidence received during the course of
13 the trial. And so you'll determine the facts based upon
14 your consideration of that evidence.

15 But under your oath and obligation as a juror you must
16 accept the law as I provide it to you as being the law that
17 you are to apply in the case.

18 In other words, you're never to concern yourself what
19 you thought the law was before you came to serve as a juror
20 this week or what you think the law ought to be.

21 Under your oath as a juror you must accept the law as
22 I have provided it to you in order to apply it to the facts
23 as you determine those facts to be in arriving at your
24 decisions in this case.

25 Now, as I've told you, the state has the burden of

Jury charge

1 proving the defendant's guilt to your satisfaction beyond a
2 reasonable doubt.

3 That does not however mean that the state has to prove
4 the defendant -- the defendant's guilt beyond all doubt or
5 beyond any possible doubt, but it does require the state to
6 prove his guilt to your satisfaction beyond a reasonable
7 doubt.

8 The term reasonable doubt should be given its plain
9 and ordinary meaning. A reasonable doubt is the kind of
10 doubt that would cause a reasonable person to hesitate to
11 act upon the information that's been provided. And a
12 defendant is entitled to any reasonable doubt that arises
13 from the evidence or lack of evidence in a case, and if,
14 upon any factual issue essential to a finding of a verdict
15 of guilty you have some reasonable doubt as to how that
16 issue should be resolved, it would be your duty to resolve
17 that reasonable doubt in favor of the defendant.

18 Now, while there are various forms of evidence such as
19 testimony, photographs, documents, charts, videos, audios
20 and other types of physical exhibits, there are really only
21 two types of evidence.

22 Either or both of those types of evidence may be used
23 to prove a fact in issue either singly or collectively.
24 But the two types of evidence are direct evidence and
25 circumstantial evidence.

Jury charge

1 Direct evidence is the testimony of a person who
2 testifies from actual knowledge of the fact. It is
3 testimony by a person who has perceived the existence of
4 some fact by means of his or her senses, and then they come
5 into court and they testify as to what they have previously
6 perceived.

7 Direct evidence proves the existence of a fact
8 directly, and it does not require any deduction or any
9 inference in order to establish that fact.

10 Circumstantial evidence, on the other hand, is the
11 proof of some other fact or a set of facts which taken
12 either singly or collectively may prove the existence of a
13 fact in question as a necessary consequence, that is by a
14 deduction or through an inference.

15 An inference is simply a deduction of fact that may
16 logically and reasonably be drawn from the proof of some
17 other fact or a set of facts.

18 It is a fact not proven by the direct testimony of a
19 person based upon their personal perception, but it is a
20 conclusion which might reasonably be drawn from the proof
21 of other facts.

22 In other words, you may infer that a particular event
23 occurred or that a particular fact exists based upon the
24 proof of sufficient factual circumstances which would
25 reasonably warrant you arriving at a particular conclusion.

Jury charge

1 The commission a crime and any particular element
2 necessary to establish a crime may be proven by direct
3 evidence or by circumstantial evidence or by a combination
4 of both types of evidence.

5 The law makes no distinction between the weight or
6 value to be given to direct evidence or to circumstantial
7 evidence. However, to the extent that the state relies
8 upon circumstantial evidence to establish the commission of
9 a crime, all of the circumstances proven must be consistent
10 with each other and when taken together point conclusively
11 to the guilt of the accused beyond a reasonable doubt.

12 If these circumstances merely portray the defendant's
13 behavior as suspicious, then that proof is insufficient and
14 it fails.

15 The burden rests with the state, regardless of whether
16 the state relies upon direct evidence or circumstantial
17 evidence or some combination of the two, to prove the
18 defendant guilty beyond a reasonable doubt.

19 Proof beyond a reasonable doubt is proof that leaves
20 you firmly convinced of the defendant's guilt. There are
21 very few things in this world that we know with absolute
22 certainty, and in criminal cases the law does not require
23 that proof that overcomes every possible doubt.

24 If based, upon your consideration of the evidence in
25 this case you are firmly convinced that the defendant is

Jury charge

1 guilty of a crime for which he stands charged, or perhaps
2 in this case as I'll explain later any lesser included
3 offense that you are permitted to consider, then you must
4 find the defendant guilty of that particular crime.

5 And if, on the other hand, you think there is a real
6 possibility that the defendant is not guilty of a crime for
7 which he stands charged, or some lesser included offense,
8 then you must give him the benefit of that doubt and return
9 a verdict of not guilty.

10 Now, in this case, as you know, there are five
11 separate charges. I'm going to instruct you on those five
12 separate and distinct offenses. I'm going to begin with
13 the indictment charging the defendant with the crime of
14 armed robbery.

15 Armed robbery is a statutory offense. By that I just
16 mean -- you might see those blue volumes. That's the Code
17 of Laws of South Carolina. Every year from January through
18 May the legislature meets in Columbia, and during that
19 legislative session they pass a number of laws and rules
20 and regulations that govern our conduct in a variety of
21 ways.

22 Some of those statutes are referred to as criminal
23 statutes or penal statutes, which means they have criminal
24 penalties attached to them where a person is found to have
25 violated a particular statute.

Jury charge

1 In this particular case armed robbery is a statutory
2 offense, and it's set forth in Section 16-11-330 of the
3 South Carolina Code of Laws.

4 That statute defines armed robbery as follows: A
5 person who commits the crime of robbery while armed with a
6 pistol, dirk, slingshot, metal knuckles, razor or other
7 deadly weapon, or while alleging, either by action or
8 words, that he is armed while using a representation of a
9 deadly weapon or any object which a person present during
10 the commission of the robbery reasonably believed to be a
11 deadly weapon is guilty of the crime of armed robbery.

12 Robbery is defined as a larceny by force or by the
13 threat of the use of force in order to accomplish the
14 larceny. Larceny is defined as the taking of property that
15 belongs to another with intent to steal it.

16 Robbery is defined in the law as the taking of another
17 person's property with the intent to steal it from the
18 person or presence of that person by the use of force or
19 violence or by the threat of the use of force or violence
20 through intimidation in order to accomplish the theft.

21 An item is deemed to be in the presence of a person
22 with respect to the crime of robbery when the property is
23 solely within his or her reach, observation or control that
24 he or she could, if not overcome by violence or prevented
25 by fear or intimidation, retained his or her possession of

Jury charge

1 it.

2 Taking property of another with an intent to steal it
3 by forcing a person to surrender possession of property or
4 by causing a person to surrender possession of property by
5 putting that person in fear through intimidation is a
6 robbery under the law.

7 A robbery becomes an armed robbery when the robbery is
8 accomplished through the use of a pistol or other deadly
9 weapon or while the perpetrator is alleging that he is
10 armed with a deadly weapon while using a representation of
11 a deadly weapon or some object which a person present
12 reasonably believed to be a deadly weapon under the law.

13 Criminal intent is also a necessary element of any
14 crime which must be proven beyond a reasonable doubt.
15 Criminal intent is a mental state of conscious wrongdoing
16 in contrast to the commission of an act which is the result
17 of an accident or mistake or inadvertence.

18 An intent may be proven by acts, declarations and
19 conduct of the defendant, as well as any other
20 circumstances which are established by the evidence in the
21 case from which you might naturally and reasonably infer
22 any such intent.

23 The defendant is also charged with the crime of
24 failing to stop when signaled by a law enforcement officer,
25 and that's also a statutory offense set forth in 56-5-750.

Jury charge

1 That provision of law provides that in the absence of
2 mitigating circumstances it is unlawful for a motor vehicle
3 driver while driving a vehicle on the a road, street or
4 highway in this state to fail to stop that vehicle when
5 signaled by a law enforcement vehicle by means of a siren
6 or flashing light.

7 An attempt to increase the speed of a vehicle or in
8 other manner avoid a pursuing law enforcement vehicle when
9 signaled by a siren or flashing light may be considered a
10 violation of this particular section of law if the jury
11 deems it appropriate.

12 Failure to see a flashing light or hear a siren does
13 not excuse a failure to stop when the distance between the
14 vehicle and other road conditions are such that it would be
15 reasonable for a driver to hear or see the signals from the
16 law enforcement vehicle.

17 In order to prove the defendant guilty of a violation
18 of this particular statute it must be shown that the
19 defendant was driving a motor vehicle, he was driving a
20 vehicle on a road, street or highway in this state and in
21 this county, he was signaled to stop by a law enforcement
22 vehicle using a siren or flashing light or both, and he did
23 not stop.

24 In the absence of mitigating circumstances refers to
25 the circumstance where a defendant's failure to stop was

jury charge

1 accompanied by circumstances which would give rise to a
2 reasonable excuse or explanation for the defendant's
3 failure to respond to the signal to which you otherwise
4 would be required to follow.

5 The next indictment that I'll reference is that of
6 charging the defendant with resisting arrest.

7 Section 16-9-320. In this particular case it's under
8 Subsection (A). And that particular statute provides that
9 it is unlawful for a person knowingly and wilfully to
10 oppose or resist a law enforcement officer in serving,
11 executing or attempting to serve or execute a legal writ or
12 process, or to resist a lawful arrest being made by one
13 whom the person knows or reasonably should know is a law
14 enforcement officer.

15 The term knowingly means an act which is done with
16 knowledge and awareness of that fact.

17 The term wilfully means an act done intentionally and
18 purposefully and not by accident, inadvertence or mistake.

19 The terms oppose and resist mean to impede, hinder,
20 obstruct or interfere with an arrest, whether by violent or
21 nonviolent means or methods.

22 The term knows or reasonably should know in reference
23 to a law enforcement officer means that the defendant had
24 actual knowledge that the person making the arrest was a
25 law enforcement officer or that the defendant was on notice

Jury charge

1 of sufficient facts and circumstances which would put a
2 reasonable person acting under the same or similar
3 circumstances on notice of the fact that the person making
4 the arrest was a law enforcement officer.

5 The term law enforcement officer means any duly
6 appointed or commissioned law enforcement officer of this
7 state, county or municipality.

8 And the next indictments I will be referencing are
9 those charging the defendant with possession with intent to
10 distribute methamphetamine and possession with intent to
11 distribute Clonazepam, and this instruction will apply to
12 both. They just have to be two separate charges, one
13 involving methamphetamine and one involving Clonazepam.

14 Section 44-53-375 of the Code of Laws provides that it
15 is unlawful for a person to possess with intent to
16 distribute or dispense or deliver methamphetamine in
17 violation of Section 44-53-370 of the South Carolina Code
18 of Laws.

19 Section 44-53-370 of the Code of Laws provides that it
20 shall be unlawful for any person to possess with intent to
21 distribute or to dispense or to deliver a controlled
22 substance except when authorized by law pursuant to a valid
23 prescription or order of a licensed professional
24 practitioner acting in the regular course of his or her
25 professional practice and in accordance with all legal

Jury charge

1 requirements.

2 A controlled substance means a drug or other substance
3 which is classified in schedules 2 through 5 in the South
4 Carolina Code of Laws and those sections that classify
5 various types of drugs.

6 Methamphetamine is classified in Section 44-53-210 of
7 the South Carolina Code of Laws as a schedule II controlled
8 drug and therefore is declared to be a controlled substance
9 under the law.

10 Clonazepam is classified as a Schedule IV drug and
11 therefore is also declared to be a controlled substance
12 under the law of this state.

13 The weight of any controlled substance includes the
14 weight of the substance in its pure form or any compound or
15 any mixture containing that substance.

16 To distribute means to deliver a controlled substance
17 from one person to another, and to deliver simply means to
18 transfer a controlled substance or attempt to transfer a
19 controlled substance to another.

20 The state is alleging in this particular case that the
21 defendant violated these statutes by possessing with intent
22 to distribute a quantity of methamphetamine and also a
23 quantity of Clonazepam.

24 Before a person may be found guilty of possession with
25 intent to distribute a controlled substance it must first

Jury charge

1 be proven beyond a reasonable doubt that the person did
2 knowingly have in his actual or constructive possession the
3 controlled substance which is alleged to have been
4 possessed. In this case, as I stated, that would be
5 methamphetamine and Clonazepam.

6 Knowingly is defined as having knowledge of the fact.
7 It's an act done wilfully, purposefully and consciously.
8 Actual possession of a substance occurs when the substance
9 is proven to have been in the actual physical custody or
10 control of the person charged with possession and he having
11 knowledge of its presence.

12 A person has possession of a substance within the
13 meaning of the law when he has both the power, the ability
14 and the intent to control the disposition or use of the
15 substance.

16 Constructive possession of a substance, on the other
17 hand, occurs when a person, although in not actual physical
18 custody of the substance, exercises dominion and control
19 over the substance or has the right to exercise dominion
20 and control over the substance even though at the time it
21 was not in his actual physical custody.

22 The act of possession, which includes the element of
23 knowledge, may be proven by either direct evidence or
24 circumstantial evidence or by a combination of both of
25 those types of evidence.

Jury charge

1 You are permitted to infer the act of possession of a
2 substance, as well as the elements of knowledge and intent,
3 from evidence of acts, declarations or conduct of the
4 defendant, as well as any other circumstances established
5 by the evidence in this case from which you might
6 reasonably infer such possession, knowledge or intent as
7 often the state of a person's mind can only be proven by
8 circumstantial evidence.

9 Before the defendant in this case could be found
10 guilty of possession with intent to distribute a controlled
11 substance as alleged in two separate indictments, it is
12 necessary that the evidence in this case has established to
13 your satisfaction beyond a reasonable doubt that the
14 defendant did knowingly and actually or constructively
15 possess the controlled substance as alleged in the
16 respective indictments and the controlled substance alleged
17 to have been possessed was methamphetamine as alleged in
18 one indictment or Clonazepam as alleged in the other
19 indictment and that at the time the defendant has been
20 proven to have possessed that controlled substance he
21 intended to distribute it.

22 The term intent means the state of a person's mind
23 which directs his actions towards a specific object or
24 goal. In this case that refers to an intent to distribute
25 the controlled substance if proven to have been possessed

Jury charge

1 by the defendant.

2 To distribute or to deliver means to transfer a
3 controlled substance from one person to another, whether or
4 not in exchange for money or any other consideration or
5 thing of value.

6 Section 44-53-375, subsection (b) of that statute,
7 provides that you are permitted as a jury to infer an
8 intent to distribute upon proof of possession of one or
9 more grams of methamphetamine.

10 In other words, with respect to methamphetamine the
11 law permits you to infer the existence of a particular
12 fact, within this context an intent to distribute, from
13 proof of some other fact or set of facts, in this case
14 possession of one gram or more of the substance, but you
15 are in no way required to do so.

16 Your duty as juror is to determine whether or not the
17 state has proven the defendant's guilt beyond a reasonable
18 doubt based upon your careful examination and evaluation of
19 all of the evidence received during the trial of this case
20 which is probative on a particular issue and any reasonable
21 inferences which might be derived therefrom in the exercise
22 of good judgment and common sense conscientiously applied
23 to the evidence in the case.

24 Not only must the state prove beyond a reasonable
25 doubt each of the essential elements of those crimes that I

Jury charge

1 have charged you with respect to contained in each of the
2 separate indictments in order to prove the defendant
3 guilty. The state has to not only prove that a crime was
4 committed by someone but the state has to prove that the
5 defendant in this case was the person who committed that
6 crime.

7 So in this case the state must not only prove that the
8 crimes alleged in each of the separate indictments was
9 committed by someone. The state also has to prove that it
10 was Timothy Wayne Wilbanks who has committed that
11 particular offense.

12 If, after a careful consideration of all of the
13 evidence received during the trial including any evidence
14 relating to the issue of the identification of the
15 defendant as being the perpetrator of any crime proven to
16 have been committed by someone, you have a reasonable doubt
17 as to the accuracy of the identification of the defendant
18 as the perpetrator of that crime, it would be your duty to
19 resolve that reasonable doubt in favor of the defendant and
20 to return a verdict of not guilty as to that particular
21 charge.

22 And if, on the other hand, after you consider all of
23 the evidence related to a particular charge presented in
24 the case, you have no reasonable doubt as to the accuracy
25 of the identification of the defendant as the perpetrator

Jury charge

1 of the crime alleged in that indictment, it would then be
2 your corresponding duty to find the defendant guilty of
3 that crime where it has been proven to your satisfaction
4 beyond a reasonable doubt.

5 Now, as I've also told you at the beginning of this
6 trial, and I emphasize to you now, the fact that a
7 defendant in a criminal trial does not take the witness
8 stand and testify during the trial of the case is not a
9 fact which may be considered by the jury in any way during
10 your deliberations or in your determination as to whether
11 or not his guilt has been proven beyond a reasonable doubt.

12 You may not permit such a fact to weigh in the
13 slightest degree against the defendant. As I've stated,
14 the burden is on the state to prove the defendant guilty
15 beyond a reasonable doubt.

16 The burden is never upon a defendant to prove that
17 he's not guilty or to prove that he is innocent because in
18 some cases that might not be possible.

19 Therefore you are not to draw any inference nor reach
20 any conclusion from the fact that a defendant does not
21 testify during the trial of this case, nor may that fact
22 even be discussed by the jurors while you are engaged in
23 your deliberations.

24 Now, ladies and gentlemen, as I've told you, you've
25 got five separate charges to render verdicts as to. And as

Jury charge

1 I think I also previously told you, your verdicts in this
2 case might be the same as to all of the charges, might be
3 different as to all of the charges, the different charges.
4 That, obviously, will depend upon your determination of
5 fact as it relates to a particular charge and then your
6 application of the law as it relates to that charge.

7 So in addition to the evidence which has been
8 introduced during the trial, Madam Forelady, you're going
9 to have these indictments, which I told will simply serve
10 as the verdict forms.

11 On the back of each indictment in the lower left-hand
12 corner you'll see the word verdict, and it's beneath that
13 word that you're going to be asked to indicate the jury's
14 unanimous decision as it relates to that particular charge
15 contained in that particular indictment.

16 Now, with respect to the indictment charging armed
17 robbery, you have two potential verdict forms. Those two
18 potential verdict forms are guilty and not guilty. So
19 whatever that decision is, you'll indicate it in the space
20 provided.

21 With respect to the indictment charging failing to
22 stop, you have two potential verdict forms. Those two
23 potential verdict forms are guilty and not guilty. So
24 whichever you find, indicate it in the space provided.

25 The indictment for resisting arrest has two potential

Jury charge

1 verdict forms, and those potential verdict forms are guilty
2 and not guilty. So whatever that decision is, enter it in
3 the space provided.

4 And with respect to the indictments charging
5 possession with intent to distribute a controlled
6 substance, you're going to have three potential verdict
7 forms. Those three potential verdict forms as to each of
8 those indictments will be guilty, which means guilty of the
9 charge in the indictment, which is possession with intent
10 to distribute, in one methamphetamine, the other
11 Clonazepam.

12 You will also be able to consider as to those two
13 indictments a lesser included offense, that lesser included
14 offense being simply possession of a controlled substance,
15 whether it be methamphetamine or Clonazepam. And then of
16 course as to each of those indictments you also have a
17 potential verdict form of not guilty.

18 So with respect to the two indictments charging a
19 controlled substance violation, the three potential verdict
20 forms are guilty, or guilty of simple possession, or not
21 guilty.

22 Now, Madam Forelady, you'll have to -- with respect to
23 a lesser included offense, if the jury were to find the
24 defendant guilty of only the lesser included offense on the
25 two drug indictments or either of the drug indictments, you

Jury charge

1 have to write that out. You have to write out guilty of
2 possession or guilty of simple possession. That means the
3 jury has only found possession and is not convinced beyond
4 a reasonable doubt of possession with intent to distribute.
5 of course if the jury doesn't find possession has been
6 proven, the verdict form would be not guilty.

7 Now, ladies and gentlemen, as I told you, I'm not
8 concerned with what your decisions are. But, as I've
9 stated, the verdicts have to be unanimous. All 12 of you
10 must be in agreement before any decision may be entered on
11 the verdict form and returned to court.

12 Now, during deliberations there may come a time where
13 you have a question about evidence or the facts. Please
14 understand that the law prohibits me from answering any
15 questions that relate to issues of fact or evidentiary
16 questions. I'm not permitted to comment upon the evidence
17 or facts.

18 Also, now that the case is closed and you're going to
19 be going back to deliberate, no additional evidence can be
20 received.

21 So before the evidence is sent back I'm going to have
22 the lawyers and the court reporter verify all of the
23 exhibits so that we can be certain that everything that was
24 introduced during the trial is being sent back to you for
25 your consideration. But if there's something else out

Jury charge

1 there you think might could help you, if it wasn't
2 introduced it cannot be received now. So don't ask me
3 about receiving other items of evidence if it wasn't
4 introduced because I'm not permitted to allow you to have
5 it. The evidence period is closed.

6 If you think something was introduced but you don't
7 have it, you can let me know of that fact. If you don't
8 have it, we'll try to find it if hasn't been sent back and
9 it was introduced.

10 So far as the law is concerned, I know this is a lot
11 of the information I provided you, and I am permitted to
12 give you additional instruction on the law. And I can give
13 a complete instruction if you need it. I can provide you a
14 clarification or additional explanation as to a point of
15 law if you need it. So should you have a question about
16 the law that you are to apply, I am always permitted to
17 answer those questions.

18 So during deliberations, Madam Forelady, if you or a
19 fellow juror has some question or you determine that I need
20 to assist you with something, you should have a pad in the
21 jury room with you.

22 Just write out your issue or question that you might
23 have for me. Write it out on a piece of paper, give it to
24 the bailiff. He or she will provide it to me and I'll
25 respond accordingly.

Jury charge

1 Now, during deliberations -- I don't know if we have
2 any smokers on the jury, but if we do, you can't smoke in
3 the courthouse. So if you do want to smoke you have to go
4 outside, and that's permitted, but you are instructed that
5 if any juror is absent from the jury room for some
6 permitted purpose, then the deliberations have to stop,
7 deliberations may only be engaged in and may only resume
8 when all 12 jurors are present so that all 12 may
9 participate.

10 Now, also I have no way of knowing how long your
11 deliberations might take, nor do you, because you haven't
12 started. But I will tell you this. If you get to a point
13 in your deliberations where you think it's appropriate to
14 order lunch, we can order lunch for you.

15 It usually takes a little over an hour, maybe an hour
16 and 10 or 15 minutes, to have it ordered, prepared and
17 brought to the jury room. So just keep that timeframe in
18 mind in the event that the jury determines that you wish to
19 order lunch. It'll take a little over an hour to have that
20 accomplished.

21 I think that covers everything, but if it doesn't I'm
22 sure one of these lawyers will jog by memory, and if I do
23 need to bring you back for any reason, I will do so to
24 provide you with additional information. If I don't need
25 to bring you back, I'll simply send word by way of the

Jury charge

1 bailiff that you may begin with your deliberations. And in
2 that event the bailiff will bring to the jury room all of
3 the exhibits which have been introduced.

4 And to you, Madam Forelady, they'll bring the
5 indictments which will serve as the verdict forms.

6 I would suggest this. I only have one indictment, so
7 don't when -- you're writing the verdicts, be sure that you
8 write it correctly. I don't want any scratches-out on the
9 indictment. So if you're making a decision about that, you
10 might want to just write it on a piece of paper first so
11 you'll be certain that everybody's in agreement. Then you
12 can transfer it and write it to the -- onto the verdict
13 form itself.

14 You'll also need to sign your name as the foreperson.
15 As I say, you're the only juror that needs to sign the
16 verdict form, but you do need to sign it and place the
17 appropriate date, which is June 14th.

18 There will be a computer that will go back so that in
19 the event you need to review the videos and audios that
20 have been introduced, there'll be a computer to allow you
21 to do that.

22 If for some reason you can't figure out how to get it
23 going or get it uploaded or whatever it might be, let us
24 know, and we'll try to give you assistance with that. I'm
25 guessing between the 12 of you, you can figure it out.

Jury charge

1 But, if not, I'll call one of my grandchildren to come up
2 here and help you with it.

3 All right. I'll ask all jurors to please retire to
4 the jury room, but do not begin deliberations until I send
5 you word to do so.

6 (Whereupon, the jury retired to deliberate at
7 10:37 a.m.)

8 THE COURT: Are there any exceptions taken to the
9 instruction or requests for additions to the instruction by
10 the state?

11 MR. BARNETTE: May we approach?

12 (Bench conference held off the record.)

13 (Whereupon, all exhibits reviewed by counsel and the
14 court reporter.)

15 MR. BARNETTE: I believe all of the exhibits have been
16 accounted for, Your Honor, and one and two of the defense
17 exhibits are both videos work on that to make sure that we
18 had that covered from that standpoint for the defense.

19 THE COURT: All right. All exhibits accounted for,
20 Mr. Snyder?

21 MR. SNYDER: Yes, sir.

22 THE COURT: Does the defendant have -- does the
23 defendant take any exception to the instruction I provided
24 the jury, or do you have any request for additions to it?

25 MR. SNYDER: Let me consult with him.

Verdict

1 (Pause.)

2 MR. SNYDER: Mr. Wilbanks is okay with the
3 instructions that were given to the jury.

4 THE COURT: All right. Let me talk to you about one
5 thing.

6 (Bench conference held off the record.)

7 (Whereupon, the alternate jurors were returned to the
8 courtroom.)

9 THE COURT: I've got my alternates back.

10 As each of you know, you can't participate in the jury
11 deliberations because it looks like the original 12 are
12 able to do that.

13 However, I don't know how long deliberations might
14 take, and it could be something would happen and one of you
15 would need to be -- or both of you for that matter -- be
16 substituted. So I'm going to have you stay with me.

17 You won't be able to go into the jury room to
18 deliberate and you won't be able to talk about the case
19 between yourselves either. You're only permitted to talk
20 about the case while you're sitting as a juror if you're
21 involved in jury deliberations. It might be that you will
22 be, could be that you won't be.

23 But I need you to stay in any event. You can talk
24 about anything else you want to, but you just can't talk
25 about the case yet.

Verdict

1 I understand the jury has ordered lunch, so your lunch
2 orders will also be taken. The bailiff will be taking you
3 to another room somewhere that'll accommodate you while
4 this jury is deliberating. And they'll bring your lunch
5 there too.

6 Okay. And if the jury has a question and comes back,
7 then you will be coming back also. So you'll have all the
8 information that they have in the event you're called upon
9 to participate in deliberations.

10 Okay. So if you will, go with the bailiff, and
11 shortly they'll take your lunch order.

12 All right. You can take the exhibits back. Tell the
13 jury to begin their deliberations and notify us when
14 they've concluded.

15 We'll be at ease while the jury is deliberating.

16 (Whereupon, the exhibits were submitted to the jury at
17 11:03 a.m.)

18 THE COURT: All right. I understand the jury has
19 reached a decision. Are we ready to receive it?

20 MR. BARNETTE: The state's ready, Your Honor.

21 MR. SNYDER: Yes, sir.

22 THE COURT: Bring the alternates too.

23 (Whereupon, the jury returned to the courtroom at
24 11:15 a.m. to report its verdict.)

25 THE COURT: Madam Forelady, have you and your fellow

Verdict

1 jurors reached unanimous decisions on each of the separate
2 indictments?

3 THE FOREPERSON: Yes, Your Honor.

4 THE COURT: Did you reflect those decisions on the
5 back of the indictments as requested?

6 THE FOREPERSON: Yes, Your Honor.

7 THE COURT: Did you sign your name as the foreperson
8 and date it?

9 THE FOREPERSON: Yes, sir.

10 THE COURT: All right. If you will, please hand those
11 up by way of the bailiff.

12 You may publish the verdicts.

13 THE CLERK: In the State of South Carolina, in the
14 County of Spartanburg, Indictment No. 2022-GS-42-0353, the
15 State vs. Timothy Wayne Wilbanks, indicted for armed
16 robbery, the verdict, guilty. Signed by the foreperson
17 June 14th of 2023.

18 In the State of South Carolina, in the County of
19 Spartanburg, Indictment No. 2022-GS-42-0355, the State of
20 South Carolina vs. Timothy Wayne Wilbanks, failure to stop
21 for a motor vehicle, the verdict, guilty. Signed by the
22 foreperson June 14th of 2023.

23 Indictment No. 2022-GS-42-0356, the State of South
24 Carolina vs. Timothy Wayne Wilbanks, indictment for
25 resisting arrest, verdict, guilty. Signed by the

Sentence

1 foreperson June 14th of 2023.

2 2022-GS-42-00358, the State of South Carolina vs.
3 Timothy Wayne Wilbanks, indictment for possession with the
4 intent to distribute methamphetamine, guilty. Signed by
5 the foreperson June 14th of 2023.

6 2022-GS-42-0357, the State of South Carolina vs.
7 Timothy Wayne Wilbanks, indictment for possession with the
8 intent to distribute Clonazepam, guilty of possession. The
9 verdict is guilty of possession. Signed by the foreperson
10 June 14th of 2023.

11 Ladies and gentlemen of the jury, is this your verdict
12 and still your verdict? If so, please raise your right
13 hand.

14 (Whereupon, all jurors responded in the affirmative.)

15 THE CLERK: So say you all.

16 THE COURT: Does the defendant wish to have the jury
17 polled?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: All right. Thank you.

20 Any other matters we need to address with the jury
21 present?

22 MR. BARNETTE: None from the state, Your Honor.

23 MR. SNYDER: No, sir.

24 (Whereupon, the trial jury was excused.)

25 THE COURT: Any matters to be addressed prior to the

Sentence

1 imposition of sentence?

2 MR. SNYDER: None from the defense, Judge.

3 MR. BARNETTE: Let me finish the sentencing sheets.
4 I've got to put the correct -- if I understood it right,
5 it's PWID on the meth, possession on the Clonazepam, is
6 that right?

7 THE COURT: Do you need a few minutes? We'll take ten
8 minutes.

9 MR. SNYDER: I did have maybe one or two short
10 motions.

11 THE COURT: All right.

12 MR. SNYDER: At this time we request a motion for a
13 new trial based on just inconsistent testimony and didn't
14 line up with the video. And I think Mr. Wilbanks probably
15 has an issue with some of the rulings. And I would
16 therefore request a new trial on his behalf.

17 THE COURT: All right. That motion is denied.
18 Any others?

19 MR. SNYDER: No, sir.

20 THE COURT: All right. We'll take ten minutes.

21 MR. BARNETTE: And, Your Honor, I'm marking as Court's
22 Exhibit 2 his life notice. Your Honor, it will be made
23 part of the record in sentencing.

24 (Life notice marked Court's Exhibit No. 2.)

25 THE COURT: We'll be at ease for ten minutes.

Sentence

1 (Whereupon, a recess was taken.)

2 THE COURT: All right. Mr. Barnette.

3 MR. BARNETTE: May it please the Court, Your Honor.

4 I've entered as Court's Exhibit 2, is the notice of
5 life notice that's been served on Mr. Wilbanks, plus his
6 attorney Mr. Snyder in this case. And based off his
7 conviction for armed robbery a life sentence would be the
8 request from the State per statute.

9 I don't know if you need me to go into anything else
10 from that, Your Honor.

11 THE COURT: Mr. Snyder, you've seen the Exhibit No. 2
12 that Mr. Barnette has presented?

13 MR. SNYDER: Yes, sir. I have.

14 THE COURT: And you and Mr. Wilbanks were served with
15 the notice of their intent to seek a life sentence pursuant
16 to 17-25-45 if Mr. Wilbanks were convicted of armed robbery
17 today.

18 MR. SNYDER: Yes, sir.

19 THE COURT: Is there any reason why that sentence
20 should not be imposed?

21 MR. SNYDER: Judge, they followed the law regarding a
22 conviction for this on your record and the 2-strikes rule.
23 I don't know of any reason not to impose the sentence.

24 THE COURT: So, in other words, you don't -- you don't
25 have any reason to believe that I have discretion in the

Sentence

1 matter.

2 MR. SNYDER: No, sir.

3 THE COURT: All right. Anything else you want to tell
4 me?

5 MR. SNYDER: You've -- you've listened to the
6 evidence; you've heard what the jury heard.

7 There's nothing I can say now that changes the
8 sentence. So I just glad Mr. Wilbanks is at peace with the
9 process and I just wish him luck with going forward.

10 I don't have anything else to add.

11 THE COURT: All right. Mr. Wilbanks, you got anything
12 you want to tell me?

13 THE DEFENDANT: No, sir. Like he said, Your Honor,
14 I'm at peace with the process. I know it's a process. I
15 know they's things that I'll have to work out down the
16 road, and we're working on those already.

17 And I'm at peace. I'm at peace with it. I'm still
18 the same person I was when I came in here. I am at perfect
19 peace.

20 I mean, I hate it. I hate the course of events that's
21 happened, and I'm generally sorry and remorseful over my
22 part in any and all of the circumstances, the situations to
23 impose any suffering, pain or sorrow on anyone.

24 And I believe it was a good jury. And, I mean, are
25 they things I'm not happy with? Of course. But he's only

Sentence

1 going to do so much, and I'm not here to reargue the case
2 again.

3 I know there's other process and procedures I gotta go
4 to in order to do that. And that's why I have peace with
5 it. I got peace, Your Honor. I really do. And I
6 appreciate your input to me.

7 I do apologize to the Court for my frustration
8 sometimes, and my frustration between he and I.

9 It's been very difficult to try to communicate and
10 it's just -- they's been a lot of losses in my life, but
11 still that doesn't negate my responsibility to take the
12 high road and to hold my head up because of what I profess.
13 I don't profess to be perfect. I profess that I serve the
14 Lord, and that's why I have peace.

15 And the testimony of my walk at the jail the last 19
16 months and prior, I've done my best to show that. And
17 stuff in my past that has haunted me that caused issues to
18 arise, I believe I've done the best I can to deal with them
19 during this 19 months of being at the jail.

20 And, again, it's brought me tremendous peace, and I
21 just hate we had to go this route in order to try to fix a
22 lot of things.

23 And I know I've got other processes to go through, but
24 I do appreciate you, Your Honor, and the Court's time and
25 everyone involved. I do appreciate it, and I do appreciate

Sentence

1 how the course of events went.

2 It's going to make it a little bit better for me on
3 the other end. Maybe if things would've went too perfect,
4 I'd have a long row to hoe. But I think things are going
5 to happen fairly, fairly quickly for me on the other end,
6 and I'm grateful for that. That's my hope anyway.

7 I see light at the end of the tunnel, irregardless of
8 where we're at right here right now.

9 I have seen a lot of stuff in the law books. People's
10 had crazy sentences that they couldn't see any light, and
11 they do ten years or whatever.

12 I am 57, and I do have a serious medical condition,
13 but I have already overcome that medical condition two and
14 a half years where they gave me 30 days to live. So I do
15 have a serious medical condition that I'm even being
16 treated for here. But it hasn't got me yet, so they must
17 be purpose in all of this.

18 And as far as I am concerned, I am resolved to do the
19 very best I can to make a difference for the better and not
20 be caught up in anything like this or any kind of riffraff
21 or any kind of negativity during this process of the
22 department of corrections or wherever it may be.

23 I'm still the same man I am right now knowing all of
24 this when I came in here because I have peace coming in
25 here. And I have worked on myself just being honest,

Sentence

1 working on the man in the mirror. And I've done the best I
2 can to work on that man and get honest with that man.

3 I mean, one benefit of 50-year-old addiction, a sexual
4 addiction, I finally got honest with myself about it and
5 laid that thing on the altar. So if nothing else, I'm
6 grateful that I've been delivered of that and -- and other
7 things -- stuff I just ran from all of my life.

8 So it took this to get my attention. If you will, I'm
9 just grateful that there's no more pain and suffering in
10 anyone's life or family behind any of this. I am grateful
11 for that.

12 And I just pray the best on everyone involved. I have
13 no ill will towards anyone. Everyone's just doing their
14 job. And the solicitor's office, the public defender's
15 office and the sheriff's office, they all have a tough job.
16 They have a tough job.

17 And the jail, I think the jail might even have the
18 toughest job of all, and I appreciate all the jailers
19 because they've been the upmost respectful to me.

20 They get stuck with what's going on between these two
21 guys trying to battle it out along with how they was
22 handled during arrest or whatever.

23 But the solicitor's got a tough job of cleaning up
24 some sloppy police work. He's got a tough job. I mean,
25 I've worked close with law enforcement over the years, grew

Sentence

1 up my entire life around it and the judiciary.

2 And the public defender, their case load's just --
3 it's crazy. That's what -- I'm not mad at anyone. I'm not
4 even mad at myself. I've dealt with that. I mean, if
5 anybody I was angry with, it was myself. I'm not angry
6 with God or any individual or anything. I have no
7 bitterness or resentment whatsoever, Your Honor. I mean
8 I -- I expected this and I was prepared for it.

9 I mean, this didn't catch me by surprise. Already
10 knew this was coming when I filed the 1983 lawsuit that's
11 been going on for 11 months now.

12 I knew all of this was coming and we was going to have
13 to go this route, but I knew I had to go that route too in
14 order to get some kind of resolve as well. But I
15 appreciate all your input and, again, I do apologize to
16 you, sir. If you felt or if I have been disrespectful,
17 Your Honor, in any kind of way, please accept my apology,
18 and I ask everyone to forgive me.

19 I'll try my best to walk the walk and talk the talk
20 and just I appreciate the events. That may sound crazy,
21 and so be it. But all of this had to happen for the next
22 level to really play out properly. And I's prepared for
23 that, and I've had quite some time to prepare for it.

24 So, again, I thank you, and I thank everyone. And I
25 pray blessings on everyone. No cursing, no ill will, no

Sentence

1 anything. I really mean that with all of my heart.

2 Thank you for allowing me to share that, sir.

3 THE COURT: Thank you, Mr. Wilbanks.

4 MR. BARNETTE: May it please the Court, Your Honor.

5 I'd like to make Court's Exhibit 3 and 4. Three is
6 where Mr. Wilbanks himself was served with the life notice
7 on July 27th of 2022, Your Honor. And then Mr. Snyder was
8 served on the same date by our investigators. Make that
9 Court's Exhibit 3 and 4, Your Honor.

10 (Affidavit of service for defendant marked Court's
11 Exhibit 3; affidavit of service for Mr. Snyder marked
12 Court's Exhibit No. 4.)

13 THE COURT: All right. As to Indictment 2022-00353,
14 that's an indictment for armed robbery, wherein you have
15 been found guilty by a jury, the Sentence of the Court is
16 you, Timothy Wayne Wilbanks, be confined to the South
17 Carolina Department of Corrections for the balance of your
18 natural life pursuant to South Carolina Code Section
19 17-25-45.

20 Indictment 2022-00355, failing to stop, wherein you
21 have been found guilty, sentence is five years concurrent.
22 Credit for jail time.

23 2022-00356, wherein you have been found guilty by a
24 jury of resisting arrest, sentence is one year concurrent.
25 Credit being given for jail time.

1 Indictment 2022-00358, wherein you have been found
2 guilty by a jury of possession with intent to distribute
3 methamphetamine, Sentence of the Court is you be confined
4 to the South Carolina Department of Corrections for a
5 period of 15 years concurrent. Credit being given for any
6 time he's entitled to.

7 Indictment 2022-00357, indictment for possession with
8 intent to distribute Clonazepam, wherein you were found
9 guilty by a jury of the lesser included offense of
10 possession of Clonazepam, Sentence of the Court is you be
11 confined to the South Carolina Department of Corrections
12 for a period of six months. Credit for time served.

13 Mr. Wilbanks, you have the right to appeal the
14 verdicts of the jury and the sentences of the Court. You
15 must file any notice of your intent to appeal those
16 decisions within ten days of today's date. Mr. Snyder can
17 help you with that.

18 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 8th, 12th, 13th and 14th days of June 2023.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

August 10, 2023

s/Linda D. Moffitt

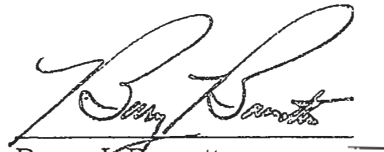
Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG) FOR THE SEVENTH JUDICIAL CIRCUIT

State of South Carolina,)
) vs.) **NOTICE OF LIFE SENTENCE PURSUANT**
) **TO SECTION 17-25-45(A)**
Timothy Wayne Wilbanks,)
Defendant.) Indictment Nos.: 2022-GS-42-353, and
) 2022-GS-42-359 thru 361
))
))
_____)

To: The Defendant and his attorney, Charles W. Snyder, III., Esq.:

YOU WILL PLEASE TAKE NOTICE that pursuant to Section 17-25-45(A) & (H) of the South Carolina Code of Laws, 1976, as amended, the Defendant will receive a life sentence if he is convicted of one of the charges on the above listed indictments, based on his prior criminal record including but not limited to his prior convictions for Armed Robbery in 2003 on Indictment No.: 02-GS-42-5136 (Exhibit #1) for Armed Robbery per his NCIC Rap Sheet (Exhibit #2).



Barry J. Barnette
Solicitor
Seventh Judicial Circuit
Spartanburg County Courthouse
180 Magnolia Street
Spartanburg, South Carolina 29306
(864)-596-2575

July 26, 2022
Spartanburg, South Carolina

AMY W. COX
SPARTANBURG COUNTY
CLERK OF COURT

2022 JUL 26 PM 4:01

FILED

Court's Exhibit
#2 LM

EXHIBIT #1

FILED
2022 JUL 26 PM 4:01
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

02 CS-42-5136
DOCKET NO.

FILED

2022 JUL 26 PM 4:01

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

NOV 11 2002 TERM

THE STATE
vs.

Timothy Wilbanks

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A) (B); 16-23-490
CDR Code: 139
Class FEL/A

WITNESSES

T. Bradley

Spartanburg Public Safety

1. RETURNED TO SENDER

2. RETURNED TO SENDER

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANT

6. CHARGE ARREST WARRANT NUMBER

7. ASSESSMENT AND

8. FINE CARD MADE

9. TRAFFIC VIOLATION ONE COPY

H252516

NA

ACTION OF GRAND JURY

Timothy Wilbanks
Foreperson of Grand Jury
Date: 11-07-02

VERDICT

Guilty

Foreperson of Petit Jury
Date: 4-16-03

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

NOV 07 2002

At a Court of General Sessions, convened on _____ the Grand
 Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

The Defendant, Timothy Wilbanks, did in Spartanburg County, on or about September 17, 2002, while armed with a pistol, dirk, slingshot, metal knuckles, razor, knife or other deadly weapon or while alleging, either by actions or word, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon feloniously take from the person or presence of Casey Price, by means of force or intimidation goods or monies of Papa John, described as follows: U.S. Currency, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 (A) (B), Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

AMY W. COX
 SPARTANBURG COUNTY
 CLERK OF COURT
 DEPUTY SOLICITOR

10:41 PM 26 JUL 2002

FILED

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS.

TIMOTHY WILBANKS

AKA:

Race: W Sex: M Age: 37

DOB: [REDACTED] SS#: [REDACTED]

Addr: [REDACTED] BETHES ROAD

SPARTANBURG SC 29302

DL# [REDACTED] SC SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2002 -GS- 42 - 5136

A/W#: H252516

Date of Offense: 9/17/2002

S.C. Code §: 16-11-330 (A)

CDR Code #: 0111319

☐ CASE RESTORED

SENTENCE

☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: ARMED ROBBERY

in violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0111319

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Randy Barnett
Solicitor

Timothy Wilbanks
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of nineteen (19) days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ The Defendant is to be given credit for _____ days/months jail time.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:\$ _____

§14-1-206 (Assessments 100%)\$ _____

§14-1-211(A)(1) (Surcharge)\$ _____

§14-1-211(A)(2) (Surcharge)\$ _____

§56-5-2995 (DUI Assessment)\$ _____

3% to County (if paid in installments) ...\$ _____

TOTAL\$ _____

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc Rehab. or Job Corps _____

May serve W/E beginning _____

Substance Abuse Counseling ☒

Random Drug/Alcohol Testing _____

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund.

C. Tinsley, DC

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

PRESIDING JUDGE

Judge Code: 101315

Sentence Date: 4-17-03

[Signature]

EXHIBIT #2

FILED
2022 JUL 26 PM 4:01
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

ICHR 003F4649FE from SCCH - July 26, 2022 at 08:22:20

SPTSL447

ICHR.003F4649FE.SCCH.20220726 08:22:20

TO: SPTSL447-7370 20220726 08:22:20 003F4649FE
FROM: SCCH-4606462 20220726 08:22:20

ICHR REQUEST FOR RAP SHEET

ORI-SC042015A FBI- 75765NB2 PUR-C

ATN-BARRY BARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-07/26/2022 TIME-08:22:46

REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT

SID-SC01065423 FBI- 75765NB2

NAME-WILBANKS, TIMOTHY WAYNE SEX-M RACE-W

HEIGHT-508 WEIGHT-190 EYES-BLU HAIR-BLK SKIN-LGT BORN-SC

FPC-1812171811141215PM11 HENRY-18 L 1 U OOO 11
M 2 U OOM

PHOTOGRAPH AVAILABLE

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

* DNA - TAKEN

DATE RECORD ENTERED--06/14/1996 DATE OF LAST UPDATE--11/15/2021

ADDITIONAL IDENTIFIERS

BIRTH

NAME

MARKS

MISC NUM

WILBANKS, TIM

SC R HND

WILBANKS, TIMOTHY

WILBANKS, TIMOTHY W

CONTRIBUTOR/SUBJECT

DOA/RCVD CHARGE/DISPOSITION/ETC

WILBANKS, TIMOTHY

03/19/2000

SC0450100 HEMINGWAY PD

CASE-31801

ATN-

WARR-88026BK

ARREST CHARGE 1-SOLICITATION

OF PROSTITUTION

OFFENSE DATE-03/19/2000

PHOTOGRAPH AVAILABLE

COURT CHARGE 01-SOLICITING

FOR PROSTITUTION

COURT DISP-CONVICTED;\$373 OR

30 DAYS

COURT DATE-03/20/2000

ATN-

DOC-R84

WARR-88026BK

WILBANKS, TIMOTHY WAYNE

SC0230000 GREENVILLE CNTY

CASE-184657

ATN-

WARR-G654930

CIT-16-13-10(B)(2)-FELONY

ARREST CHARGE 1-FORGERY,
VALUE LESS THAN \$5,000
PHOTOGRAPH AVAILABLE

FILED

2022 JUL 26 PM 4:01

CLERK OF COURT

SPARTANBURG COUNTY

06/28/2001

WARR-G654930
CIT-16-13-10 (B) (2) -FELONY

ARREST CHARGE 2-FORGERY,
VALUE LESS THAN \$5,000

SC040015G CENTRAL PPP
CIT-16-13-10 (B) (2) -FELONY
WARR-G654930

11/13/2001

COURT CHARGE 01-FORGERY,
VALUE LESS THAN \$5,000
COURT DISP-CONVICTED; 3Y SUSPE
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COURT DATE-11/13/2001
ATN-

WILBANKS, TIMOTHY WAYNE
SC0420100 SPARTANBURG PD
ATN-
WARR-H252516
CIT-16-11-330 (A) -FELONY

09/17/2002

ARREST CHARGE 1-ARMED ROBBERY
, ROBBERY ARMED WITH DEADLY
WEAPON
OFFENSE DATE-09/17/2002
PHOTOGRAPH AVAILABLE

WARR-H252517
CIT-16-13-180 (3) -FELONY

ARREST CHARGE 2-RECEIVING
STOLEN GOODS, \$5,000 OR
MORE
OFFENSE DATE-09/17/2002

CIT-16-13-180 (2) -FELONY
DOC-02GS4205135
WARR-H252517

COURT CHARGE 01-RECEIVING
STOLEN GOODS, >\$1,000 BUT
<\$5,000
COURT DISP-CONVICTED; 5 YRS ,
SUB ABUSE COUNSELING 7/21/
06 PETITION FOR WRIT OF
CERTIORARI DENIED
COURT DATE-04/16/2003
ATN-

CIT-16-11-330 (A) -FELONY
DOC-02GS4205136
WARR-H252516

COURT CHARGE 02-ARMED ROBBERY
, ROBBERY ARMED WITH DEADLY
WEAPON
COURT DISP-CONVICTED; 16 YRS,
CONC. SUB ABUSE COUNSE
LING 7/21/06 PETITION FOR
WRIT OF
COURT DATE-04/18/2003

SC040015C SC DEPT CORRECTIONS 04/21/2003 CUSTODY STATUS-RECEIVED
CASE-292513 START DATE-04/21/2003
CIT-16-13-230 (B) (2) -FELONY

COURT CHARGE 01-BREACH OF
TRUST W/FRAUD INTENT, VALUE
>\$1,000
COURT DISP-CONVICTED; 3 YRS
ATN-500200031127

CIT-16-13-10-MISDEMEANOR

COURT CHARGE 02-FORGERY
COURT DISP-CONVICTED; 3 YRS CC

CIT-16-11-330 (A) -FELONY

COURT CHARGE 03-ARMED ROBBERY

AMY W. COX
CLERK OF COURT
SPARTANBURG COUNTY

2022 JUL 26 PM 4:01

FILED

CIT-16-21-80 (2) -FELONY

, ROBBERY ARMED WITH DEADLY
WEAPON
COURT DISP-CONVICTED; 16 YRS
CC

COURT CHARGE 04-POSS/SELL/DIS
POSE STOLEN VEH>\$1,000
BUT<\$5,000
COURT DISP-CONVICTED; 5 YRS CC

WILBANKS, TIMOTHY WAYNE
SC0420000 SPARTANBURG CNTY SO
CASE-21-08857
ATN-42D100287064
WARR-2021A4210205861
CIT-16-11-330 (A) -FELONY

11/09/2021

ARREST CHARGE 1-ARMED ROBBERY
WITH A DEADLY WEAPON
OFFENSE DATE-11/09/2021
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

WARR-2021A4210205862
CIT-16-23-490-FELONY

ARREST CHARGE 2-POSS OF A
WEAPON DURING VIOLENT
CRIME
OFFENSE DATE-11/09/2021

WARR-2021A4210205863
CIT-44-53-375 (B) (1) -FELONY

ARREST CHARGE 3-DRUGS/DIST, ET
C OF METHAMPHETAMINE 1ST
OFFENSE DATE-11/09/2021

WARR-2021A4210205864
CIT-44-53-0370 (A) -MISDEMEANOR

ARREST CHARGE 4-MANUFT, POSSE
SS SCHEDULE IV DRUGS WITD-
1ST
OFFENSE DATE-11/09/2021

WARR-2021A4210205865
CIT-16-11-311-FELONY

ARREST CHARGE 5-BURGLARY -
FIRST DEGREE
OFFENSE DATE-11/09/2021

WARR-2021A4210205866
CIT-16-11-330 (A) -FELONY

ARREST CHARGE 6-ARMED ROBBERY
WITH A DEADLY WEAPON
OFFENSE DATE-11/09/2021

WARR-2021A4210205867
CIT-16-23-490-FELONY

ARREST CHARGE 7-POSS OF A
WEAPON DURING VIOLENT
CRIME
OFFENSE DATE-11/09/2021

WARR-2021A4210205869
CIT-16-9-320 (A) -MISDEMEANOR

AMY W. COX
SPARTANBURG COUNTY CLERK OF COURT
ARREST CHARGE 8-RESISTING
ARREST
OFFENSE DATE-11/09/2021

WARR-2021A4210102183
CIT-16-11-330 (A) -FELONY

FILED

ARREST CHARGE 9-ARMED ROBBERY
WITH A DEADLY WEAPON

2022 JUL 26 PM 4:01

WARR-2021A4210102184
CIT-16-23-490-FELONY

OFFENSE DATE-11/09/2021

ARREST CHARGE 10-POSS OF A
WEAPON DURING VIOLENT
CRIME
OFFENSE DATE-11/09/2021

WILBANKS, TIMOTHY WAYNE
SC0420000 SPARTANBURG CNTY SO
CASE-21-08857
ATN-42D100287201
WARR-2021A4210102203
CIT-16-13-0180 (A) -FELONY

11/15/2021

ARREST CHARGE 1-RSG VALUE
\$2,000 OR LESS (ENH PER
16-1-57)
OFFENSE DATE-11/15/2021
PHOTOGRAPH AVAILABLE
PALM PRINTS AVAILABLE

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/ 75765NB2
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110
(C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR
ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.U.S.C. 922(G)).

** S C CJIS END OF RECORD **]

Top of page or Menu

Delete

CLERK OF COURT
SPARTANBURG COUNTY

QWA 00063D3B6D from NC2K - July 26, 2022 at 08:22:23

SPTSL447

.QWA.00063D3B6D.NC2K.20220726 08:22:23

TO: SPTSL447-7371

20220726 08:22:23

FROM:

NC2K-4012909

20220726 08:22:23

1L010C70000AD92QWA
SC042015A

NO NCIC WANT FBI/75765NB2

NO NCIC WANT SOC/

***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

Top of page or Menu

Delete

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

2022 JUL 26 PM 4: 01

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG) FOR THE SEVENTH JUDICIAL CIRCUIT

The State of South Carolina) SOLICITOR'S AFFIDAVIT OF SERVICE
-VS-)

Timothy Wayne Wilbanks,) Ind./Warrant No. 2022GS420353
) 2022GS420359-361

DEFENDANT(S))

THIS IS TO CERTIFY that the undersigned deponent says that he served the following materials to Timothy W. Wilbanks:

1. ☒ Notice of life sentence	4. ☐ Civil Cover Sheet & Summons
2. ☐ Solicitor's Rule 5 Request	5. ☐ Motion to Convert Sentence
3. ☐ Other:	6. ☐ Notice of Motion of Bond Revocation

(☒) by delivering to Timothy W. Wilbanks personally
() by delivering to _____, a person
of age and discretion residing at the residence of the defendant and being at
said residence at the time of service
() by delivering (faxing/Email) to _____ at the
place of business.

and leaving with him/her copies of the same at ██████ Caliborn Ave
near Spartanburg, South Carolina, on the 27 day of
July, 2022 and that the deponent is not a party
to this action and has no interest therein or connection therewith.

PRINT

Sworn To and Subscribed Before Me

this 27 day of July

Notary Public for South Carolina

My Commission Expires 1-2-2026

Cynthia L. Parris

Court's Exhibit
3 LM

Non-Service

Left at Residence

Unable to locate

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

The State of South Carolina)

SOLICITOR'S AFFIDAVIT OF SERVICE

-VS-)

Timothy Wayne Wilbanks,)

Ind./Warrant No. 2022GS420353

) 2022GS420359-361

DEFENDANT(S))

THIS IS TO CERTIFY that the undersigned deponent says that he served the following materials to **Charles W. Snyder, III**:

1. <u>X</u> Notice of life sentence	4. _____ Civil Cover Sheet & Summons
2. _____ Solicitor's Rule 5 Request	5. _____ Motion to Convert Sentence
3. _____ Other:	6. _____ Notice of Motion of Bond Revocation

() by delivering to _____ personally

() by delivering to _____, a person
of age and discretion residing at the residence of the defendant and being at
said residence at the time of service

(✓) by delivering (faxing/Email) to Jackie Miller at the
place of business.

and leaving with him/her copies of the same at 366 N. Church St.
near Spartanburg, South Carolina, on the 27 day of
July, 2022 and that the deponent is not a party
to this action and has no interest therein or connection therewith.

PRINT

Richard W. Gregory
Richard W. Gregory

Sworn To and Subscribed Before Me

this 27 day of July, 2022

William L. Harris
Notary Public for South Carolina
My Commission Expires 12-30

William L. Harris

AMY W. COX
CLERK OF COURT
SPARTANBURG COUNTY
2022 JUL 28 AM 9:07

Court's Exhibit
4 LM

FILED

Non-Service

Left at Residence

Unable to locate

22-GS-42-0353

DOCKET NO.

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

page 2

TERM

ARREST WARRANT NUMBER

Count One - 2021A4210205866
Count Two - 2021A4210205867

ACTION OF GRAND JURY

FILED

[Signature]

Foreperson of Grand Jury
Date: MAR 04 2022

VERDICT

Foreperson of Petit Jury
Date

FILED
2022 MAR 11 AM 11:11
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

THE STATE
v.

TIMOTHY WAYNE WILBANKS

Indictment for
ARMED ROBBERY (Count I);
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME
(Count II)

SC Code 16-11-330 (A); 16-23-490
CDR Code: 139; 549
Class: FEL/A; FEL/F

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

MAR 04 2022

At a Court of General Sessions, convened on JAN 19 2022, the Grand
 Jurors of Spartanburg County present upon their oath:

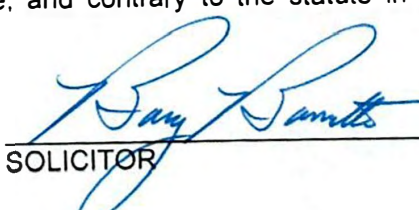
COUNT ONE – ARMED ROBBERY

That the Defendant, Timothy Wayne Wilbanks, did in Spartanburg County on or about November 9, 2021, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take property and/or currency from the person or presence of Mayuriben Kalpeshkum Patel, owner/employee of Spartan Spot Convenience Store located at 7558 Asheville Highway, Spartanburg, SC, including but not limited to U.S. currency by means of force, violence, and/or intimidation with the intent to deprive her permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

COUNT TWO – POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME

That the Defendant, Timothy Wayne Wilbanks, did in Spartanburg County on or about November 9, 2021 possess or visibly display a firearm or a knife during the commission of a violent crime, to-wit: ARMED ROBBERY, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

DOCKET NO. **22-GS-42-0355****WITNESSES**

Spartanburg County Sheriff's Office

The State of South Carolina

County of Spartanburg

Barry J. Barnette
Barry J. Barnette, Solicitor**COURT OF GENERAL SESSIONS**MAR 07 2022
TERM**ARREST WARRANT NUMBER**

2021A4210205860

ACTION OF GRAND JURY**TRIO DEJ***Daniella Woodward*
Foreperson of Grand Jury

Date: MAR 04 2022

VERDICT**Indictment for****FAILURE TO STOP MOTOR VEHICLE**

SC Code: 56-5-750

CDR Code: 0065

Class MIS/A

Foreperson of Petit Jury

Date:

FILED
2022 MAR 11 AM 11:13
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

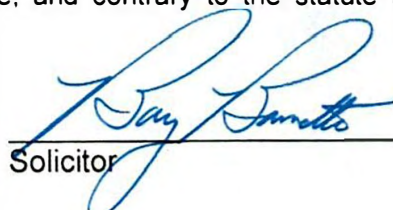
INDICTMENT

At a Court of General Sessions, convened on JAN 19 2022 ^{MAR 04 2022} the
 Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE

That the defendant, Timothy Wayne Wilbanks, did in Spartanburg County on or about November 9, 2021, fail to stop the motor vehicle which he was driving on a road, street, or highway of the State of South Carolina when he was signaled by a law enforcement vehicle by means of a siren or flashing light, in violation of §56-5-750, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Solicitor

DOCKET NO. **22-GS-42-0356**

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 07 2022 TERM

ARREST WARRANT NUMBER

2021A4210205869

ACTION OF GRAND JURY

True Bill

Danville Woodward

Foreperson of Grand Jury
Date: MAR 04 2022

VERDICT

Indictment for

RESISTING ARREST

SC Code: 16-9-320 (A)
CDR Code: 326
Class MIS-C

Foreperson of Petit Jury
Date:

FILED
2022 MAR 11 AM 11:13
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

THE STATE
v.

TIMOTHY WAYNE WILBANKS

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 19 2022 ^{MAR 04 2022} the
Grand Jurors of Spartanburg County present upon their oath:

RESISTING ARREST

That the Defendant, Timothy Wayne Wilbanks, did in Spartanburg County, on or about November 9, 2021, knowingly, willfully and unlawfully oppose and/or attempt to resist the effort of Deputy Nicholas M. Harakas, a law enforcement officer of this State, to make a lawful arrest of the said defendant, in violation of §16-09-320 (a), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and **contrary** to the statute in such case made and provided.



SOLICITOR

DOCKET NO. **22-GS-42-0357**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 07 2022

TERM

THE STATE
v.

TIMOTHY WAYNE WILBANKS

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE CLONAZEPAM

SC Code: 44-53-370

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2021A4210205864

ACTION OF GRAND JURY

FILED

[Signature]

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

FILED
2022 MAR 11 AM 11:14
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAR 04 2022

At a Court of General Sessions, convened on JAN 19 2022, the Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE CLONAZEPAM

That the Defendant, Timothy Wayne Wilbanks, did in Spartanburg County on or about November 9, 2021, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Clonazepam, a schedule IV controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended*.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

DOCKET NO. **22-GS-42-0358****The State of South Carolina**

County of Spartanburg

Barry J. Barnette, Solicitor**COURT OF GENERAL SESSIONS**

MAR 11 2022

TERM**THE STATE**
v.**TIMOTHY WAYNE WILBANKS**FILED
2022 MAR 11 AM 11:19
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX**WITNESSES**

Spartanburg County Sheriff's Office

*Barry J. Barnette***ARREST WARRANT NUMBER**

2021A4210205863

ACTION OF GRAND JURY

T-2022-0011

*Danella Woodard*Foreperson of Grand Jury
Date: MAR 04 2022**VERDICT****Indictment for****POSSESSION WITH INTENT TO
DISTRIBUTE METHAMPHETAMINE**

SC Code 44-53-375

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 19 2022 ^{MAR 04 2022}, the Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE

That the Defendant, Timothy Wayne Wilbanks, did in Spartanburg County on or about November 9, 2021, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Methamphetamine, a schedule II controlled substance, in violation of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 22-GS-42-0353Timothy Wayne Wilbanks

AKA:

Race: White Sex: Male Age: 57DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]AW#: 2021A4210205866Date of Offense: 11/9/2021S.C. Code §: 16-11-330 (A)CDR Code #: 0139

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Armed Robbery - COUNT (1) ONEIn violation of § 16-11-330 (A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor13039
SC Bar #Timothy Wayne Wilbanks
Defendant[Signature]
Attorney for Defendant[Signature]
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of life days/months/years/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years/Time Served and or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: —☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Timothy Wayne Wilbanks INDICTMENT/CASE#: _____ -GS- 42 - _____

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$ _____
§56-5-2995 (DUI Assessment)	\$12		\$ _____
§56-1-286 (DUI Breath Test)	\$25		\$ _____
§14-1-212 (Law Enforce. Funding)	\$25		\$ _____
§14-1-213 (Drug Court Surcharge)	\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$ _____
3% to County (if paid in installments)	TBD		\$ _____

- ☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees
- ☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 138.75Clerk of Court/Deputy Clerk: Camp
Court Reporter: L. MoffittPresiding Judge: _____
Judge Code: _____
Sentence Date: June 14, 2023

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

Timothy Wayne Wilbanks

AKA:

Race: White Sex: Male Age: 57DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 22-GS-42-0355A/W#: 2021A4210205860Date of Offense: 11/9/2021S.C. Code §: 56-5-750CDR Code #: 0065

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: FAILURE TO STOPIn violation of § 56-5-750 of the S.C. Code of Laws, bearing CDR Code # 0139☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar # 13039

Defendant

Attorney for Defendant

SC Bar # 7961WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 5 days/months/years/Time Served ☐ Youthful Offender Act not to exceed — years~~and a fine of \$ —; provided that upon the service of — days/months/years/Time Served and or payment~~of \$ —; plus costs and assessments as applicable*; ~~the balance is suspended with probation for —~~~~months/years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. — days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Timothy Wayne Wilbanks INDICTMENT/CASE#: _____ -GS- 42 - _____

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

	\$	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning		
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>25.75</u>

Clerk of Court/Deputy Clerk: T. Camp
Court Reporter: L. MobergPresiding Judge: _____
Judge Code: _____
Sentence Date: June 14, 2023

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 22-GS-42-356Timothy Wayne Wilbanks

AKA:

Race: _____ Sex: Male 57DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#* [REDACTED] SID# _____

A/W#:

Date of Offense: 11/9/2021

S C. Code §:

CDR Code #:

2021 A 421020586916-9-320(A)0326

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: RESISTING ARRESTIn violation of § 16-9-320(A) of the S.C. Code of Laws, bearing CDR Code # 0430-0326☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar # 13039

Defendant

Attorney for Defendant

SC Bar # 75561WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 1 days/months/years/Time Served ☐ Youthful Offender Act not to exceed 1 yearsand/or to pay a fine of \$ 0; ~~provided that upon the service of~~ 0 days/months/years/Time Served and or paymentof \$ 0; plus costs and assessments as applicable; ~~the balance is suspended with probation for~~ _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on. _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
_____ days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Timothy Wayne Wilbanks INDICTMENT/CASE#: -GS- 42 -

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ _____
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ <u>128.75</u>

 Clerk of Court/Deputy Clerk: T. Camp
 Court Reporter: L. Morfitt

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: Jan 14, 2023

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 22-GS-42-0357Timothy Wayne Wilbanks

AKA:

Race: White Sex: Male Age: 57DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]

A/W#:

Date of Offense: 11/9/2021S.C. Code §: 44-53-370CDR Code #: 0179

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: POSSESSION OF CLONAZEPAM 1ST OFFENSEIn violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0179☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor13039
SC Bar #[Signature]
Defendant[Signature]
Attorney for Defendant79961
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 6 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Timothy Wayne Wilbanks INDICTMENT/CASE#: -GS- 42 -

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	\$ _____
§14-1-206 (Assessments 107.5%)			\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)		\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100	\$ _____
§56-5-2995 (DUI Assessment)		\$12	\$ _____
§56-1-286 (DUI Breath Test)		\$25	\$ _____
§14-1-212 (Law Enforce. Funding)		\$25	\$ _____
§14-1-213 (Drug Court Surcharge)		\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$ _____
3% to County (if paid in installments)		TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$ _____
TOTAL			\$ 283.25

Clerk of Court/Deputy Clerk: T. Camp
Court Reporter: B. MoffittPresiding Judge: _____
Judge Code: _____
Sentence Date: June 14, 2023

STATE OF SOUTH CAROLINA

COUNTY OF Spartanburg

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 22-GS-42-358Timothy Wayne Wilbanks

AKA:

Race: White Sex: Male Age: 57DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]

AW#:

Date of Offense: 11/9/2021S.C. Code §: 44-53-375CDR Code #: 3776

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: PWID METH 1ST OFFENSEIn violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 4439 3776☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor13039
SC Bar #Timothy Wayne Wilbanks
Defendant[Signature]
Attorney for Defendant9961
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 19 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; ~~provided that upon the service of~~ days/months/years/Time Served and/or paymentof \$; plus costs and assessments as applicable; ~~the balance is suspended with probation for~~ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on. ☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Timothy Wayne Wilbanks INDICTMENT/CASE#: -GS- 42 -

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve W/E beginning: _____
- ☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
- ☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- ☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5%)				\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)			\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)			\$100	\$ _____
§56-5-2995 (DUI Assessment)			\$12	\$ _____
§56-1-286 (DUI Breath Test)			\$25	\$ _____
§14-1-212 (Law Enforce. Funding)			\$25	\$ _____
§14-1-213 (Drug Court Surcharge)			\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)			\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)			\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)			\$40/ea	\$ _____
3% to County (if paid in installments)			TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees			\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund			TBD	\$ _____
			TOTAL	\$ <u>283.25</u>

Clerk of Court/Deputy Clerk: T. Camp
Court Reporter: L. MoffattPresiding Judge: _____
Judge Code: _____
Sentence Date: Mar 14, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Feb 01 2024

SC Court of Appeals



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 1st day of February, 2024.

RECEIVED

Feb 01 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

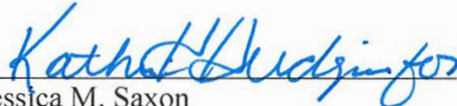
TIMOTHY W. WILBANKS,

APPELLANT

APPELLATE CASE NO. 2023-001027

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 1st day of February, 2024.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT